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**THE  
BENGAL LEGISLATIVE COUNCIL MANUAL,  
1924;**

**CONTAINING**

**Reprints of the Acts relating to the Bengal  
Legislative Council, and rules, regulations  
and instructions issued in respect  
of that Council,**

**and •**

**Notes and an Index.**

**[SECOND EDITION.]**

**[corrected up to the 15th January, 1924.]**



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## **Preamble 9 & 10 Geo. 5, Ch. 101.**

WHEREAS it is the declared policy of Parliament to provide for the increasing association of Indians in every branch of Indian administration, and for the gradual development of self-governing institutions, with a view to the progressive realisation of responsible government in British India as an integral part of the empire :

And whereas progress in giving affect to this policy can only be achieved by successive stages, and it is expedient that substantial steps in this direction should be taken :

And whereas the time and manner of each advance can be determined only by Parliament, upon whom responsibility lies for the welfare and advancement of the Indian peoples :

And whereas the action of Parliament in such matters must be guided by the co-operation received from those on whom new opportunities of service will be conferred, and by the extent to which it is found that confidence can be reposed in their sense of responsibility :

And whereas concurrently with the gradual development of self-governing institutions in the provinces of India it is expedient to give to those provinces in provincial matters the largest measure of independence of the Government of India, which is compatible with the due discharge by the latter of its own responsibilities :

Be it therefore enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

\* \* \* \* \*

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# GOVERNMENT OF INDIA ACT.

(5 & 6 Geo. 5, Ch. 61 ; 6 & 7 Geo. 5, Ch. 37 ; 9 & 10 Geo. 5, Ch. 101 ; and 12 & 13 Geo. 5, Ch. 20.)

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# GOVERNMENT OF INDIA ACT.

(5 & 6 Geo. 5, Ch. 61 ; 6 & 7 Geo. 5, Ch. 37 ; 9 & 10  
Geo. 5, Ch. 101; and 12 & 13 Geo. 5, Ch. 20.)

An Act to consolidate enactments relating to the government of India.

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal; and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

## PART I.—Home Government.

### The Crown.

1. The territories for the time being vested in His Majesty in India are governed by and in the name of His Majesty the King-Emperor of India, and all rights which, if the Government of India Act, 1858, had not been passed, might have been exercised by the East India Company in relation to any territories may be exercised by and in the name of His Majesty as rights incidental to the government of India.

Government of  
India by the  
Crown.

21 and 22  
Vict., c.  
106.

### The Secretary of State.

2. (1) Subject to the provisions of this Act, the Secretary of State has and performs all such or the like powers and duties relating to the government or revenues of India, and has all such or the like powers over all officers appointed or continued under this Act as, if the Government of India Act, 1858, had not been passed, might or should have been exercised or performed by the East India Company, or by the Court of Directors or Court of Proprietors of that Company, either alone or by the direction or with the sanction or approbation of the Commissioners for the Affairs of India, in relation to that government or those revenues and the officers and servants of that Company, and also all such powers as might have been exercised by the said Commissioners alone.

The Secretary  
of State.

21 and 22  
Vict., c.  
103.

(2) In particular, the Secretary of State may, subject to the provisions of this Act <sup>1</sup>[or rules made thereunder], superintend, direct and control all acts, operations and concerns which relate to the government or revenues of India, and all grants of salaries, gratuities and allowances,

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part I.—Home Government.)*

and all other payments and charges, out of or on the revenues of India.

<sup>1</sup>(2) The salary of the Secretary of State shall be paid out of moneys provided by Parliament, and the salaries of his under-secretaries and any other expenses of his department may be paid out of the revenues of India or out of moneys provided by Parliament.]

**The Council of India.****The Council of India.**

3. (1) The Council of India shall consist of such number of members, not less than <sup>2</sup>[eight] and not more than <sup>2</sup>[twelve], as the Secretary of State may determine :

<sup>3</sup>[Provided that the council as constituted at the time of the passing of the Government of India Act, 1919, shall not be affected by this provision, but no fresh appointment or re-appointment thereto shall be made in excess of the maximum prescribed by this provision.]

(2) The right of filling any vacancy in the council shall be vested in the Secretary of State.

(3) Unless at the time of an appointment to fill a vacancy in the council '[one-half]' of the then existing members of the council are persons who have served or resided in [\*] <sup>5</sup>India for at least ten years, and have not last left [\*] <sup>6</sup>India more than five years before the date of their appointment, the person appointed to fill the vacancy must be so qualified.

(4) Every member of the council shall hold office, except as by this section provided, for a term of '[five] years :

<sup>8</sup>[Provided that the tenure of office of any person who is a member of the council at the time of the passing of the Government of India Act, 1919, shall be the same as though that Act had not been passed.]

(5) The Secretary of State may, for special reasons of public advantage, reappoint for a further term of 5 years any member of the council whose term of office has expired. In any such case the reasons for the re-appointment shall

<sup>1</sup> This sub-section was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The words "eight" and "twelve" were substituted for the words "ten" and "fourteen" respectively by *ibid.*

<sup>3</sup> The proviso was added by *ibid.*

<sup>4</sup> The word "one-half" was substituted for the word "nine" by *ibid.*

<sup>5</sup> The word "British" was omitted by *ibid.*

<sup>6</sup> The word "British" was omitted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>7</sup> The word "five" was substituted for "seven" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>8</sup> This proviso was inserted by *ibid.*

*(Part I.—Home Government.)*

be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament. Save as aforesaid, a member of the council shall not be capable of re-appointment.

(6) Any member of the council may, by writing signed by him, resign his office. The instrument of resignation shall be recorded in the minutes of the council.

(7) Any member of the council may be removed by His Majesty from his office on an address of both Houses of Parliament.

<sup>1</sup>[(8) There shall be paid to each member of the Council of India the annual salary of twelve hundred pounds :

Provided that any member of the council who was at the time of his appointment domiciled in India shall receive, in addition to the salary hereby provided, an annual subsistence allowance of six hundred pounds.

Such salaries and allowances may be paid out of the revenues of India or out of moneys provided by Parliament.

(9) Notwithstanding anything in any Act or rule, where any person in the service of the Crown in India is appointed a member of the council before the completion of the period of such service required to entitle him to a pension or annuity, his service as such member shall, for the purpose of any pension or annuity which would have been payable to him on completion of such period, be reckoned as service under the Crown in India whilst resident in India.]

4. No member of the Council of India shall be capable of sitting or voting in Parliament.

**Seat in Council  
disqualification  
for Parliament.  
Duties of  
Council.**

5. The Council of India shall, under the direction of the Secretary of State, and subject to the provisions of this Act, conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India.

\* \* 2

6. (1) All powers required to be exercised by the Secretary of State in Council, and all powers of the Council of India, shall be exercised at meetings of the council at which <sup>2</sup>[such number of members are present as may be prescribed by general directions of the Secretary of State].

**Powers of  
Council.**

<sup>1</sup> Sub-sections (8) & (9) of section 3 were substituted for old sub-section (8) by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The remaining words were omitted by *ibid.*

<sup>3</sup> These words were substituted for "not less than five members are present" by *ibid.*



*(Part I.—Home Government.)*

(2) The council may act notwithstanding any vacancy in their number.

**President and  
vice-president  
of Council.**

7. (1) The Secretary of State shall be the president of the Council of India, with power to vote.

(2) The Secretary of State in Council may appoint any member of the council to be vice-president thereof, and the Secretary of State may at any time remove any person so appointed.

(3) At every meeting of the Council the Secretary of State, or, in his absence, the vice-president, if present, or, in the absence of both of them, one of the members of the Council, chosen by the members present at the meeting, shall preside.

**Meetings of  
Council.**

8. Meetings of the Council of India shall be convened and held as and when the Secretary of State directs, but one such meeting at least shall be held in every <sup>1</sup>[month].

**Procedure at  
meetings.**

9. (1) At any meeting of the Council of India at which the Secretary of State is present, if there is a difference of opinion on any question, except a question with respect to which a majority of votes at a meeting is by this Act declared to be necessary, the determination of the Secretary of State shall be final.

(2) In case of an equality of votes at any meeting of the Council, the person presiding at the meeting shall have a second or casting vote.

(3) All acts done at a meeting of the Council in the absence of the Secretary of State shall require the approval in writing of the Secretary of State.

(4) In case of difference of opinion on any question decided at a meeting of the Council, the Secretary of State may require that his opinion and the reasons for it be entered in the minutes of the proceedings, and any member of the Council, who has been present at the meeting, may require that his opinion, and any reasons for it that he has stated at the meeting, be also entered in like manner.

**Committees  
of Council  
and business.**

10. The Secretary of State may constitute committees of the Council of India for the more convenient transaction of business, and direct what departments of business are to be under those committees respectively, and generally direct the manner in which <sup>2</sup>[the business of the Secretary of State in Council or the Council of India shall be transacted, and any order made or act done in accordance with

<sup>1</sup> The word "month" was substituted for the word "week" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were substituted for "all business of the Council or Committees thereof is to be transacted" by *ibid*

*(Part I.—Home Government.)*

such direction shall, subject to the provisions of this Act, be treated as being an order of the Secretary of State in Council].

**Orders and Communications.**

<sup>1</sup>[11. Subject to the provisions of this Act, the procedure for the sending of orders and communications to India and in general for correspondence between the Secretary of State and the Governor-General in Council or any local government shall be such as may be prescribed by order of the Secretary of State in Council.]

**Correspondence  
between  
Secretary of  
State and  
India.**

12. }  
13. } <sup>1</sup>Omitted.  
14. }

15. When any order is sent to India directing the actual commencement of hostilities by His Majesty's forces in India, the fact of the order having been sent shall, unless the order has in the meantime been revoked or suspended, be communicated to both Houses of Parliament within three months after the sending of the order, or, if Parliament is not sitting at the expiration of those three months, then within one month after the next meeting of Parliament.

**Communication  
to Parliament  
as to orders  
for commencing  
hostilities.**

16. [*Correspondence by Governor-General with Secretary of State.*] Omitted by Part III of Sch. II of 9 & 10 Geo. 5, Ch. 101.

**Establishment of Secretary of State.**

17. (1) No addition may be made to the establishment of the Secretary of State in Council, nor to the salaries of the persons on that establishment, except by an Order of His Majesty in Council, to be laid before both Houses of Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

**Establishment of  
Secretary of  
State.**

(2) The rules made by His Majesty for examinations, certificates, probation or other tests of fitness, in relation to appointments to junior situations in the civil service, shall apply to such appointments on the said establishment.

<sup>1</sup> Section II was substituted for old sections 11 to 14 by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part I.—Home Government.)*

(3) The Secretary of State in Council may, subject to the foregoing provisions of this section, make all appointments to and promotions in the said establishment, and may remove any officer or servant belonging to the establishment.

**Pensions and gratuities.**

18. His Majesty may, by warrant under the Royal Sign Manual, countersigned by the Chancellor of the Exchequer, grant to any secretary, officer or servant appointed on the establishment of the Secretary of State in Council such compensation, superannuation or retiring allowance, or to his legal personal representative such gratuity, as may respectively be granted to persons on the establishment of a Secretary of State, or to the personal representatives of such persons, under the laws for the time being in force concerning superannuations and other allowances to persons having held civil offices in the public service or to personal representatives of such persons.

**Military Appointments.****Military appointment.**

19. <sup>1</sup>\* \* \* \* In the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown or of the East India Company.

**Relaxation of Control of Secretary of State.****Relaxation of control of Secretary of State.**

<sup>2</sup>[19A. The Secretary of State in Council may, notwithstanding anything in this Act, by rule regulate and restrict the exercise of the powers of superintendence, direction and control vested in the Secretary of State and the Secretary of State in Council by this Act, or otherwise, in such manner as may appear necessary or expedient in order to give effect to the purposes of the Government of India Act, 1919.

Before any rules are made under this section relating to subjects other than transferred subjects, the rules proposed to be made shall be laid in draft before both Houses of Parliament, and such rules shall not be made unless both Houses by resolution approve the draft either without

<sup>1</sup> Certain words were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> Section 19A was inserted by Part I of *ibid.*

*(Part II.—The Revenues of India.)*

modification or addition, or with modifications or additions to which both Houses agree, but upon such approval being given the Secretary of State in Council may make such rules in the form in which they have been approved, and such rules on being so made shall be of full force and effect.

Any rules relating to transferred subjects made under this section shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has, sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.]

NOTE—For the rule framed under this section see the Government of India, Notification No. 835G., dated the 14th December, 1920, published at page 931 of Part 1A of the *Calcutta Gazette* of the 22nd *idem*.

**PART II.—The Revenues of India.**

20. (1) The revenues of India shall be received for and in the name of His Majesty, and shall, subject to the provisions of this Act, be applied for the purposes of the government of India alone.

Application of  
revenues.

(2) There shall be charged on the revenues of India alone—

- (a) all the debts of the East India Company; and
- (b) all sums of money, costs, charges and expenses which, if the Government of India Act, 1858, had not been passed, would have been payable by the East India Company out of the revenues of India in respect of any treaties, covenants, contracts, grants or liabilities existing at the commencement of that Act; and
- (c) all expenses, debts and liabilities lawfully contracted and incurred on account of the government of India; and
- (d) all payments under this Act <sup>1</sup>[except so far as is otherwise provided under this Act].

21 & 22  
Vict., c. 106.

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, ch. 101).

## (Part II.—The Revenues of India.)

(3) The expression “ the revenues of India ” in this Act shall include all the territorial and other revenues of or arising in British India, and, in particular,—

- (i) all tributes and other payments in respect of any territories which would have been receivable by or in the name of the East India Company if the Government of India Act, 1858, had not been passed; and 21 & 22  
Vict., c. 106,
- (ii) all fines and penalties incurred by the sentence or order of any court of justice in British India, and all forfeitures for crimes of any movable or immovable property in British India; and
- (iii) all movable or immovable property in British India escheating or lapsing for want of an heir or successor, and all property in British India devolving as *bona vacantia* for want of a rightful owner.

(4) All property vested in, or arising or accruing from property or rights vested in, His Majesty under the Government of India Act, 1858, or this Act, or to be received or disposed of by the Secretary of State in Council under this Act, shall be applied in aid of the revenues of India. 21 & 22  
Vict., c. 106,

Control of  
Secretary of  
State over  
expenditure of  
revenues.

21. <sup>1</sup>[Subject to the provisions of this Act, and rules made thereunder], the expenditure of the revenues of India, both in British India and elsewhere, shall be subject to the control of the Secretary of State in Council, and no grant or appropriation of any part of those revenues, or of any other property coming into the possession of the Secretary of State in Council by virtue of the Government of India Act, 1858, or this Act, shall be made without the concurrence of a majority of votes at a meeting of the Council of India: 21 & 22  
Vict., c. 106,

<sup>2</sup>[Provided that a grant or appropriation made in accordance with provisions or restrictions prescribed by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council shall be deemed to be made with the concurrence of a majority of such votes.]

Application of  
revenues to  
military  
operations  
beyond the  
frontier.

22. Except for preventing or repelling actual invasion of His Majesty's Indian possessions, or under other sudden and urgent necessity, the revenues of India shall not,

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

*(Part II.—The Revenues of India.)*

without the consent of both Houses of Parliament, be applicable to defraying the expenses of any military operations carried on beyond the external frontiers of those possessions by His Majesty's forces charged upon those revenues.

**23.** (1) Such parts of the revenues of India as are remitted to the United Kingdom and all money arising or accruing in the United Kingdom from any property or rights vested in His Majesty for the purposes of the government of India, or from the sale or disposal thereof, shall be paid to the Secretary of State in Council, to be applied for the purposes of this Act.

**Accounts of  
Secretary of  
State with  
Bank.**

(2) All such revenues and money shall, except as by this section is provided, be paid into the Bank of England to the credit of an account entitled "The Account of the Secretary of State in Council of India."

(3) The money placed to the credit of that account shall be paid out on drafts or orders, either signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, or signed by the accountant-general on the establishment of the Secretary of State in Council or by one of the two senior clerks in the department of that accountant-general and countersigned in such manner as the Secretary of State in Council directs; and any draft or order so signed and countersigned shall effectually discharge the Bank of England for all money paid thereon.

(4) The Secretary of State in Council may, for the payment of current demands, keep at the Bank of England such accounts as he deems expedient; and every such account shall be kept in such name and be drawn upon by such person, and in such manner, as the Secretary of State in Council directs.

(5) There shall be raised in the books of the Bank of England such accounts as may be necessary in respect of stock vested in the Secretary of State in Council; and every such account shall be entitled "The Stock Account of the Secretary of State in Council of India."

(6) Every account referred to in this section shall be a public account.

**24.** The Secretary of State in Council, by power of attorney executed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, may

**Powers of  
attorney for  
sale or purchase  
of stock and  
receipt of  
dividends.**

*(Part II.—The Revenues of India.)*

authorise all or any of the cashiers of the Bank of England—

- (a) to sell and transfer all or any part of any stock standing in the books of the Bank to the account of the Secretary of State in Council; and
- (b) to purchase and accept stock for any such account; and
- (c) to receive dividends on any stock standing to any such account;

and, by any writing signed by two members of the Council of India and countersigned as aforesaid, may direct the application of the money to be received in respect of any such sale or dividend:

Provided that stock shall not be purchased or sold and transferred under the authority of any such general power of attorney, except on an order in writing directed to the chief cashier and chief accountant of the Bank of England, and signed and countersigned as aforesaid.

**Provision as to securities.**

**25.** All securities held by or lodged with the Bank of England in trust for or on account or on behalf of the Secretary of State in Council may be disposed of, and the proceeds thereof may be applied, as may be authorised by order in writing signed by two members of the Council of India and countersigned by the Secretary of State or one of his under secretaries or his assistant under secretary, and directed to the chief cashier and chief accountant of the Bank of England.

**Accounts to be annually laid before Parliament.**

**26.** (1) The Secretary of State in Council shall, within the first <sup>1</sup>[twenty-eight days] during which Parliament is sitting next after the first day of May in every year, lay before both Houses of Parliament—

- (a) an account, for the financial year preceding that last completed, of the annual produce of the revenues of India, distinguishing the same under the respective heads thereof, in each of the several provinces; and of all the annual receipts and disbursements at home and abroad for the purposes of the government of India, distinguishing the same under the respective heads thereof;

<sup>1</sup> These words were substituted for the words "fourteen days" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

*(Part II.—The Revenues of India.)*

- (b) the latest estimate of the same for the financial year last completed;
- (c) accounts of all stocks, loans, debts and liabilities chargeable on the revenues of India at home and abroad, at the commencement and close of the financial year preceding that last completed, the loans, debts and liabilities raised or incurred within that year, the amounts paid off or discharged during the year, the rates of interest borne by those loans, debts and liabilities respectively, and the annual amount of that interest;
- <sup>1</sup>(d) \* \* \* \*
- (e) a list of the establishment of the Secretary of State in Council, and the salaries and allowances payable in respect thereof.

(2) If any new or increased salary or pension of fifty pounds a year or upwards has been granted or created within any year in respect of the said establishment, the particulars thereof shall be specially stated and explained at the foot of the account for that year.

(3) The account shall be accompanied by a statement, prepared from detailed reports from each province, in such form as best exhibits the moral and material progress and condition of India.

27. (1) His Majesty may, by warrant under His Royal Sign Manual, countersigned by the Chancellor of the Exchequer, appoint a fit person to be auditor of the accounts of the Secretary of State in Council, and authorise that auditor to appoint and remove such assistants as may be specified in the warrant.

**Audit of Indian  
accounts in  
United Kingdom.**

(2) The auditor shall examine and audit the accounts of the receipt, expenditure and disposal in the United Kingdom of all money, stores and property applicable for the purposes of this Act.

(3) The Secretary of State in Council shall, by the officers and servants of his establishment, produce and lay before the auditor all such accounts, accompanied by proper vouchers for their support, and submit to his inspection all books, papers and writings having relation thereto.

<sup>1</sup> Paragraph (d) was repealed by Sch. II of the Government of India (Amendment) Act, 1914 (6 & 7 Geo. 5, Ch. 37).



*(Part II.—The Revenues of India.)*

(4) The auditor may examine all such officers and servants of that establishment, being in the United Kingdom, as he thinks fit, in relation to such accounts and the receipt, expenditure or disposal of such money, stores and property, and may for that purpose, by writing signed by him, summon before him any such officer or servant.

(5) The auditor shall report to the Secretary of State in Council his approval or disapproval of the accounts aforesaid, with such remarks and observations in relation thereto, as he thinks fit, specially noting cases (if any) in which it appears to him that any money arising out of the revenues of India has been appropriated to purposes other than those to which they are applicable.

(6) The auditor shall specify in detail in his reports all sums of money, stores and property which ought to be accounted for, and are not brought into account, or have not been appropriated in conformity with the provisions of the law, or which have been expended or disposed of without due authority, and shall also specify any defects, inaccuracies or irregularities which may appear in the accounts, or in the authorities, vouchers or documents having relation thereto.

(7) The auditor shall lay all his reports before both Houses of Parliament, with the accounts of the year to which the reports relate.

(8) The auditor shall hold office during good behaviour.

(9) There shall be paid to the auditor and his assistants, out of the revenues of India <sup>1</sup>[or out of moneys provided by Parliament], such salaries as His Majesty, by warrant signed and countersigned as aforesaid, may direct.

(10) The auditor and his assistants (notwithstanding that some of them do not hold certificates from the Civil Service Commissioners) shall, for the purposes of superannuation <sup>2</sup>[or retiring] allowance <sup>3</sup>[and their legal personal representatives shall for the purposes of gratuity], be in the same position as if <sup>3</sup>[the auditor and his assistants] were on the establishment of the Secretary of State in Council.

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37.)

<sup>3</sup> These words were substituted for the word "they" by *ibid.*

**PART III.—Property, Contracts and Liabilities.**

28. (1) The Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, sell and dispose of any real or personal estates for the time being vested in His Majesty for the purpose of the government of India, and raise money on such real <sup>1</sup>[or personal] estate by way of mortgage <sup>1</sup>[or otherwise], and make the proper assurances for any of those purposes, and purchase and acquire any property.

**Power of Secretary of State to sell, mortgage and buy property.**

(2) Any assurance relating to real estate, made by the authority of the Secretary of State in Council, may be made under the hands and seals of <sup>2</sup>[two] members of the Council of India.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

29. (1) <sup>3</sup>[Subject to the provisions of this Act regarding the appointment of a High Commissioner for India], the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make any contract for the purposes of this Act.

**Contracts of Secretary of State.**

(2) Any contract so made may be expressed to be made by the Secretary of State in Council.

(3) Any contract so made which, if it were made between private persons, would be by law required to be under seal, may be made, varied or discharged under the hands and seals of two members of the Council of India.

(4) Any contract so made which, if it were made between private persons, would be by law required to be signed by the party to be charged therewith may be made, varied or discharged under the hands of two members of the Council of India.

(5) Provided that any contract for or relating to the manufacture, sale, purchase or supply of goods, or for or relating to affreightment or the carriage of goods, or to insurance, may, subject to such rules and restrictions as the Secretary of State in Council prescribes, be made and signed on behalf of the Secretary of State in Council by any person upon the permanent establishment of the Secretary of State in Council who is duly empowered by the Secretary of State in Council in this behalf. Contracts so made and signed shall be as valid and effectual as if

<sup>1</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 ( 6 & 7 Geo. 5, Ch. 37).

<sup>2</sup> This word was substituted for the word "three" by *ibid.*

<sup>3</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 ( 9 & 10 Geo. 5, Ch. 101).

*(Part III.—Property, Contracts and Liabilities.)*

made as prescribed by the foregoing provisions of this section. Particulars of all contracts so made and signed shall be laid before the Secretary of State in Council in such manner and form and within such times as the Secretary of State in Council prescribes.

(6) The benefit and liability of every contract made in pursuance of this section shall pass to the Secretary of State in Council for the time being.

High Commis-  
sioner for India.

<sup>1</sup>[29 A. His Majesty may by Order in Council make provision for the appointment of a High Commissioner for India in the United Kingdom, and for the pay, pension, powers, duties and conditions of employment of the High Commissioner and of his assistants; and the Order may further provide for delegating to the High Commissioner any of the powers previously exercised by the Secretary of State or the Secretary of State in Council, whether under this Act or otherwise, in relation to making contracts, and may prescribe the conditions under which he shall act on behalf of the Governor-General in Council or any local government.]

Power to execute  
assurances, etc.,  
in India.

30. (1) The Governor-General in Council and any local government may, on behalf and in the name of the Secretary of State in Council, and subject to such provisions or restrictions as the Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, prescribes, sell and dispose of any real or personal estate whatsoever in British India, within the limits of their respective governments, for the time being vested in His Majesty for the purposes of the government of India, or raise money on any such real <sup>2</sup>[or personal] estates by way of mortgage, <sup>2</sup>[or otherwise], and make proper assurances for any of those purposes, and purchase or acquire any property in British India within the said respective limits, and make any contract for the purposes of this Act.

<sup>3</sup>[(1a) A local government may on behalf and in the name of the Secretary of State in Council raise money on the security of revenues allocated to it under this Act, and make proper assurances for that purpose, and rules made

<sup>1</sup> Section 29A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>3</sup> Sub-section (1a) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part III.—Property, Contracts and Liabilities.)*

under this Act may provide for the conditions under which this power shall be exercisable.]

NOTE.—For the rules framed under this section, see the Local Government (Borrowing) Rules at page 133, *post*.

(2) Every assurance and contract made for the purposes of <sup>1</sup>[sub-section (1) of this section] shall be executed by such person and in such manner as the Governor-General in Council by resolution directs or authorises, and, if so executed, may be enforced by or against the Secretary of State in Council for the time being.

(3) All property acquired in pursuance of this section shall vest in His Majesty for the purposes of the government of India.

31. The Governor-General in Council, and any other person authorised by any Act passed in that behalf by the <sup>2</sup>[Indian legislature], may make any grant or disposition of any property in British India accruing to His Majesty by forfeiture, escheat or lapse, or by devolution as *bona vacantia*, to or in favour of any relative or connection of the person from whom the property has accrued, or to or in favour of any other person.

Power to dispose of escheated property, etc.

32. (1) The Secretary of State in Council may sue and be sued by the name of the Secretary of State in Council as a body corporate.

Rights and liabilities of Secretary of State in Council.

(2) Every person shall have the same remedies against the Secretary of State in Council as he might have had against the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(3) The property for the time being vested in His Majesty for the purposes of the government of India shall be liable to the same judgments and executions as it would have been liable to in respect of liabilities lawfully incurred by the East India Company if the Government of India Act, 1858, and this Act had not been passed.

(4) Neither the Secretary of State nor any member of the Council of India shall be personally liable in respect of any assurance or contract made by or on behalf of the Secretary of State in Council, or any other liability incurred by the Secretary of State or the Secretary of State in Council in his or their official capacity, nor in respect of any contract, covenant or engagement of the East India Company; nor shall any person executing any assurance

21 & 22  
V. ch., c. 106.

<sup>1</sup> These words and figures were substituted for the words "this section" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were substituted for the words "Governor-General in Legislative Council" by 464d.

*Part IV.—The Governor-General in Council.)*

or contract on behalf of the Secretary of State in Council be personally liable in respect thereof; but all such liabilities, and all costs and damages in respect thereof, shall be borne by the revenues of India.

**PART IV.—The Governor-General in Council.****General Powers and duties of Governor-General in Council.**

**Powers of  
control of  
Governor-  
General in  
Council.**

33. <sup>1</sup>[Subject to the provisions of this Act and rules made thereunder], the superintendence, direction and control of the civil and military government of India is vested in the Governor-General in Council, who is required to pay due obedience to all such orders as he may receive from the Secretary of State.

**The Governor-General.**

**The Governor-  
General.**

34. The Governor-General of India is appointed by His Majesty by warrant under the Royal Sign Manual.

**The Governor-General's Executive Council.**

35. [*Constitution of Governor-General's executive council.*] Omitted by Part II of Sch. II, 9 and 10 Geo. 5, Ch. 101.

**Members of  
Council.**

36. (1) The <sup>2</sup>[\*] members of the Governor-General's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual.

(2) The number of the <sup>3</sup>[\*] members of the council shall be <sup>4</sup>[such as His Majesty thinks fit to appoint].

(3) Three at least of them must be persons who [\* \* \* \*] have been for at least ten years in the service of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland, <sup>5</sup>[or a pleader of a High Court] of not less than <sup>6</sup>[ten] years' standing.

(4) If any <sup>7</sup>[member of the council (other than the Commander-in-chief for the time being of His Majesty's

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The word "ordinary" was omitted by *ibid.*

<sup>3</sup> These words were substituted for the words "five, or if His Majesty thinks fit to appoint a sixth member, six" by *ibid.*

<sup>4</sup> The words "at the time of their appointment" were omitted by *ibid.*

<sup>5</sup> These words were inserted by *ibid.*

<sup>6</sup> This word was substituted for the word "five" by *ibid.*

<sup>7</sup> These words were substituted for the words "person appointed an ordinary member of the council" by *ibid.*

*(Part IV.—The Governor-General in Council.)*

forces in India)] is at the time of his appointment in the military service of the Crown, he shall not, during his continuance in office as such member, hold any military command or be employed in actual military duties.

<sup>1</sup>[(5) Provision may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor-General's executive council in any case where such provision is not made by the foregoing provisions of this section.]

<sup>2</sup>[37. If the Commander-in-Chief for the time being of His Majesty's forces in India is a member of the Governor-General's executive council, he shall, subject to the provisions of this Act, have rank and precedence in the council next after the Governor-General.]

**Rank and  
precedence of  
Commander-  
in-Chief.**

38. The Governor-General shall appoint a member of his executive council to be Vice-President thereof.

**Vice-president  
of council.**

39. (1) The Governor-General's executive council shall assemble at such places in India as the Governor-General in Council appoints.

**Meetings.**

(2) At any meeting of the council the Governor-General or other person presiding and <sup>3</sup>[one member of the council (other than the Commander-in-Chief)] may exercise all the functions of the Governor-General in Council.

40. (1) All orders and other proceedings of the Governor-General in Council shall be expressed to be made by the Governor-General in Council, and shall be signed by a Secretary to the Government of India, or otherwise, as the Governor-General in Council may direct <sup>4</sup>[and when so signed shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council.]

**Business of  
Governor-  
General  
in Council.**

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his executive council, and every order made, or act done, in accordance with such rules and orders shall be treated as being the order or the act of the Governor-General in Council.

41. (1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's executive council, the Governor-General in Council shall be bound by the opinion and decision of the

**Procedure in  
case of  
difference  
of opinion.**

<sup>1</sup> Sub-section (5) was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> Section 37 was substituted by *ibid.*

<sup>3</sup> These words were substituted for the words "one ordinary member of the council" by *ibid.*

<sup>4</sup> These words were inserted by *ibid.*

*(Part IV.—The Governor-General in Council.)*

majority of those present, and, if they are equally divided, the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that whenever any measure is proposed before the Governor-General in Council whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the council have recorded on the subject.

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his council.

**Provision for  
absence of  
Governor-  
General  
from meetings  
of council.**

42. If the Governor-General is obliged to absent himself from any meeting of the council, by indisposition or any other cause<sup>1</sup>[ \* \* \* \* ], the Vice-President, or, if he is absent, the senior<sup>2</sup>[member (other than the Commander-in-Chief)] present at the meeting shall preside thereat, with the like powers as the Governor-General would have had if present:

Provided that if the Governor-General is at the time resident at the place where the meeting is assembled, and is not prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the Governor-General, when present, dissents from the majority at a meeting of the council.

**Powers of  
Governor-  
General  
in absence  
from council.**

43. (1) Whenever the Governor-General in Council declares that it is expedient that the Governor-General should visit any part of India unaccompanied by his executive council, the Governor-General in Council may,

<sup>1</sup> The words "and signifies his intended absence to the council" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were substituted for the words "ordinary member" by Part II of *ibid.*

*(Part IV.—The Governor-General in Council.)*

by order, authorize the Governor-General alone to exercise, in his discretion, all or any of the powers which might be exercised by the Governor-General in Council at meetings of the council.

(2) The Governor-General during absence from his executive council may, if he thinks it necessary, issue, on his own authority and responsibility, any order, which might have been issued by the Governor-General in Council, to any local government, or to any officers or servants of the Crown acting under the authority of any local government without previously communicating the order to the local government; and any such order shall have the same force as if made by the Governor-General in Council; but a copy of the order shall be sent forthwith to the Secretary of State and to the local government, with the reasons for making the order.

(3) The Secretary of State in Council may, by order, suspend until further order all or any of the powers of the Governor-General under the last foregoing sub-section; and those powers shall accordingly be suspended as from the time of the receipt by the Governor-General of the order of the Secretary of State in Council.

<sup>1</sup>[43A. (1) The Governor-General may at his discretion appoint, from among the members of the Legislative Assembly, council secretaries, who shall hold office during his pleasure and discharge such duties in assisting the members of his executive council as he may assign to them.

**Appointment  
of council  
secretaries.**

(2) There shall be paid to council secretaries so appointed such salary as may be provided by the Indian legislature.

(3) A council secretary shall cease to hold office if he ceases for more than six months to be a member of the Legislative Assembly.]

#### **War and Treaties.**

44. (1) The Governor-General in Council may not, without the express order of the Secretary of State in Council, in any case (except where hostilities have been actually commenced, or preparations for the commencement of hostilities have been actually made against the British Government in India or against any prince or

**Restriction on  
power of  
Governor-  
General in  
Council to  
make war or  
treaty.**

<sup>1</sup> Section 43A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).



*(Part V.—Local Governments.)*

state dependent thereon, or against any prince or state whose territories His Majesty is bound by any subsisting treaty to defend or guarantee), either declare war or commence hostilities or enter into any treaty for making war against any prince or state in India, or enter into any treaty for guaranteeing the possessions of any such prince or state.

(2) In any such excepted case the Governor-General in Council may not declare war or commence hostilities, or enter into any treaty for making war, against any other prince or state than such as is actually committing hostilities or making preparations as aforesaid, and may not make any treaty for guaranteeing the possessions of any prince or state, except on the consideration of that prince or state actually engaging to assist His Majesty against such hostilities commenced or preparations made as aforesaid.

(3) When the Governor-General in Council commences any hostilities or makes any treaty, he shall forthwith communicate the same, with the reasons therefor, to the Secretary of State.

**PART V.—Local Governments.****General.**

**Relation of  
local governments  
to Governor-  
General in  
Council.**

45. (1) <sup>1</sup>[Subject to the provisions of this Act and rules made thereunder] every local Government shall obey the orders of the Governor-General in Council, and keep him constantly and diligently informed of its proceedings and of all matters which ought, in its opinion, to be reported to him, or as to which he requires information, and is under his superintendence, direction and control in all matters relating to the government of its province.

2 [ \* \* \* \* \* ]

(3) The authority of a local government is not superseded by the presence in its province of the Governor-General.

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5. Ch. 101).

<sup>2</sup> Sub-section (2) was omitted by Part III of *ibid.*

*(Part V.—Local Governments.)*

<sup>1</sup>[45A. (1) Provision may be made by rules under this Act—

Classification  
of central and  
provincial  
subjects.

- (a) for the classification of subjects, in relation to the functions of government as central and provincial subjects, for the purpose of distinguishing the functions of local governments and local legislatures from the functions of the Governor-General in Council and the Indian legislature;
- (b) for the devolution of authority in respect of provincial subjects to local governments, and for the allocation of revenues or other moneys to those governments;
- (c) for the use, under the authority of the Governor-General in Council, of the agency of local governments in relation to central subjects, in so far as such agency may be found convenient, and for determining the financial conditions of such agency; and
- (d) for the transfer from among the provincial subjects of subjects (in this Act referred to as "transferred subjects") to the administration of the governor acting with ministers appointed under this Act, and for the allocation of revenues or moneys for the purpose of such administration.

(2) Without prejudice to the generality of the foregoing powers, rules made for the above-mentioned purposes may—

- (i) regulate the extent and conditions of such devolution, allocation, and transfer;
- (ii) provide for fixing the contributions payable by local governments to the Governor-General in Council, and making such contributions a first charge on allocated revenues or moneys;
- (iii) provide for constituting a finance department in any province, and regulating the functions of that department;
- (iv) provide for regulating the exercise of the authority vested in the local government of a province over members of the public services therein;
- (v) provide for the settlement of doubts arising as to whether any matter does or does not relate to

<sup>1</sup> Section 45A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part V.—Local Governments.)*

a provincial subject or a transferred subject, and for the treatment of matters which affect both a transferred subject and a subject which is not transferred; and

(vi) make such consequential and supplemental provisions as appear necessary or expedient :

Provided that, without prejudice to any general power of revoking or altering rules under this Act, the rules shall not authorise the revocation or suspension of the transfer of any subject, except with the sanction of the Secretary of State in Council.

(3) The powers of superintendence, direction, and control over local governments vested in the Governor-General in Council under this Act shall, in relation to transferred subjects, be exercised only for such purposes as may be specified in rules made under this Act, but the Governor-General in Council shall be the sole judge as to whether the purpose of the exercise of such powers in any particular case comes within the purposes so specified.

(4) The expressions "central subjects" and "provincial subjects" as used in this Act mean subjects so classified under the rules.

Provincial subjects, other than transferred subjects, are in this Act referred to as "reserved subjects." ]

NOTE.—For the rules made under this section, see the Devolution Rules at page 104 *et. seq.*

**Governorships.**

**Local  
government  
in governors'  
provinces.**

46. <sup>1</sup>[ (1) The presidencies of Fort William in Bengal, Fort St. George, and Bombay, and the provinces known as the United Provinces, the Punjab, Bihar and Orissa, the Central Provinces, and Assam, shall each be governed, in relation to reserved subjects, by a governor in council, and in relation to transferred subjects (save as otherwise provided by this Act) by the governor acting with ministers appointed under this Act.

The said presidencies and provinces are in this Act referred to as "governors' provinces" and the two first-named presidencies are in this Act referred to as the presidencies of Bengal and Madras.]

<sup>2</sup>[(2) The governors of the said presidencies are appointed by His Majesty by warrant under the Royal

<sup>1</sup> Sub-section (1) of section 46 was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> This sub-section was substituted by Part II of 1944.

## (Part V.—Local Governments.)

Sign Manual, and the governors of the said provinces shall be so appointed after consultation with the Governor-General.]

(3) The Secretary of State may, if he thinks fit, by order revoke or suspend, for such period as he may direct, the appointment of a council for any or all of <sup>1</sup>[the governors' provinces]; and whilst any such order is in force the governor of the <sup>2</sup>[province] to which the order refers shall have all the powers of the Governor thereof in Council.

47. (1) The members of a governor's executive council shall be appointed by His Majesty by warrant under the Royal Sign Manual, and shall be of such number, not exceeding four, as the Secretary of State in Council directs.

Members of governors' executive councils.

(2) <sup>3</sup>[One at least of them must be a person who at the time of his appointment has been] for at least twelve years in the service of the Crown in India.

<sup>4</sup>[(3) Provision may be made by rules under this Act as to the qualifications to be required in respect of members of the executive council of the governor of a province in any case where such provision is not made by the foregoing provisions of this section.]

48. Every governor of a <sup>5</sup>[province] shall appoint a member of his executive council to be vice-president thereof.

Vice-president of council.

<sup>6</sup>[49. (1) All orders and other proceedings of the government of a governor's province shall be expressed to be made by the government of the province, and shall be authenticated as the governor may by rule direct, so, however, that provision shall be made by rule for distinguishing orders and other proceedings relating to transferred subjects from other orders and proceedings.

Business of governor in council and governor with ministers.

Orders and proceedings authenticated as aforesaid shall not be called into question in any legal proceeding on the ground that they were not duly made by the government of the province.

(2) The governor may make rules and orders for the more convenient transaction of business in his executive council and with his ministers, and every order made or act done in accordance with those rules and orders shall be treated as being the order or the act of the government of the province.

<sup>1</sup> These words were substituted for the words "those presidencies" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> This word was substituted for the word "presidency" by *ibid.*

<sup>3</sup> These words were substituted for the words "Two at least of them must be persons who at the time of their appointment have been" by *ibid.*

<sup>4</sup> This sub-section was substituted by *ibid.*

<sup>5</sup> Section 49 was substituted by Part I of *ibid.*

## (Part V.—Local Governments.)

The governor may also make rules and orders for regulating the relations between his executive council and his ministers for the purpose of the transaction of the business of the local government:

Provided that any rules or orders made for the purposes specified in this section which are repugnant to the provisions of any other rules made under this Act shall, to the extent of that repugnancy, but not otherwise, be void.]

Procedure  
in case of  
difference of  
opinion in  
executive  
council.

50. (1) If any difference of opinion arises on any question brought before a meeting of a governor's executive council, the Governor in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the governor or other person presiding shall have a second or casting vote.

(2) Provided that, whenever any measure is proposed before a governor in council whereby the safety, tranquillity or interests of his <sup>1</sup>[province], or of any part thereof, are or may be, in the judgment of the governor, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected, and the majority present at a meeting of the council dissent from that opinion, the Governor may, on his own authority and responsibility by order in writing, adopt, suspend or reject the measure in whole or in part.

(3) In every such case the governor and the members of the council present at the meeting shall mutually exchange written communications (to be recorded at large in their secret proceedings) stating the grounds of their respective opinions, and the order of the governor shall be signed by the governor and by those members.

(4) Nothing in this section shall empower a governor to do anything which he could not lawfully have done with the concurrence of his council.

Provision for  
absence of  
governor from  
meetings of  
council

51. If a governor is obliged to absent himself from any meeting of his executive council, by indisposition or any other cause, <sup>2</sup>[\*\*\*] the vice-president, or, if he is absent, the senior <sup>3</sup>[\*] member present at the meeting, shall preside thereat, with the like powers as the governor would have had if present:

Provided that if the governor is at the time resident at the place where the meeting is assembled, and is not

<sup>1</sup> This word was substituted for the word " Presidency " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The words " and signifies his intended absence to the council " were omitted by Part III of *ibid.*

<sup>3</sup> The word " civil " was omitted by *ibid.*

*(Part V.—Local Governments.)*

prevented by indisposition from signing any act of council made at the meeting, the act shall require his signature; but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the governor, when present, dissents from the majority at a meeting of the council.

<sup>1</sup>[52. (1) The governor of a governor's province may, by notification, appoint ministers, not being members of his executive council or other officials, to administer transferred subjects, and any ministers so appointed shall hold office during his pleasure.

**Appointment of  
ministers and  
council  
secretaries.**

There may be paid to any minister so appointed in any province the same salary as is payable to a member of the executive council in that province, unless a smaller salary is provided by vote of the legislative council of the province.

(2) No minister shall hold office for a longer period than six months, unless he is or becomes an elected member of the local legislature.

(3) In relation to transferred subjects, the governor shall be guided by the advice of his ministers, unless he sees sufficient cause to dissent from their opinion, in which case he may require action to be taken otherwise than in accordance with that advice :

Provided that rules may be made under this Act for the temporary administration of a transferred subject where, in cases of emergency, owing to a vacancy, there is no minister in charge of the subject, by such authority and in such manner as may be prescribed by the rules.

(4) The governor of a governor's province may at his discretion appoint, from among the non-official members of the local legislature, council secretaries, who shall hold office during his pleasure and discharge such duties in assisting members of the executive council and ministers as he may assign to them.

There shall be paid to council secretaries so appointed such salary as may be provided by a vote of the legislative council.

A council secretary shall cease to hold office if he ceases for more than six months to be a member of the legislative council.]

<sup>2</sup>[52A. (1) The Governor-General in Council may, after obtaining an expression of opinion from the local government and the local legislature affected, by notification,

**Constitution of  
new provinces,  
etc., and  
provision as to  
backward  
tracts.**

<sup>1</sup> Section 52 was substituted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> Section 52A was inserted by Part I of *ibid.*

*(Part V.—Local Governments.)*

with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new governor's province, or place part of a governor's province under the administration of a deputy-governor to be appointed by the Governor-General, and may in such case apply, with such modifications as appear necessary or desirable, all or any of the provisions of this Act relating to governors' provinces, or provinces under a lieutenant-governor or chief commissioner, to any such new province or part of a province.

(2) The Governor-General in Council may declare any territory in British India to be a "backward tract," and may, by notification, with such sanction as aforesaid, direct that this Act shall apply to that territory, subject to such exceptions and modifications as may be prescribed in the notification.

Where the Governor-General in Council has, by notification, directed as aforesaid, he may, by the same or subsequent notification, direct that any Act of the Indian legislature shall not apply to the territory in question or any part thereof, or shall apply to the territory or any part, thereof, subject to such exceptions or modifications as the Governor-General thinks fit, or may authorise the governor in council to give similar directions as respects any Act of the local legislature.]

NOTE.—For a notification issued under sub-section (2), see page 287, *post*.

Saving.

<sup>1</sup>[52B. (1) The validity of any order made or action taken after the commencement of the Government of India Act, 1919, by the Governor-General in Council or by a local government, which would have been within the powers of the Governor-General in Council or of such local government if that Act had not been passed, shall not be open to question in any legal proceedings on the ground that by reason of any provision of that Act or this Act, or of any rule made by virtue of any such provision, such order or action has ceased to be within the powers of the Governor-General in Council or of the government concerned.]

(2) The validity of any order made or action taken by a governor in council, or by a governor acting with his ministers, shall not be open to question in any legal proceedings on the ground that such order or action relates or does not relate to a transferred subject, or relates to a transferred subject of which the minister is not in charge.]

<sup>1</sup> Section 52B was inserted by Part I of Sch. II of the Government of India Act, 1919 9 & 10 Geo. 5, Ch. 101).

*(Part V.—Local Governments.)***Lieutenant-Governorships and other Provinces.**

53. (1) <sup>1</sup>[The province of] Burma is, subject to the provisions of this Act, governed by a lieutenant-governor <sup>2</sup>[\* \* \* \*].

**Lieutenant-governorships.**

(2) The Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute a new province under a lieutenant-governor.

54. (1) A lieutenant-governor is appointed by the Governor-General with the approval of His Majesty.

**Appointment, etc., of lieutenant-governors.**

(2) A lieutenant-governor must have been, at the time of his appointment, at least ten years in the service of the Crown in India.

<sup>3</sup>[(3) \* \* \* \*].

55. (1) The Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, create a council in any province under a lieutenant-governor, for the purpose of assisting the lieutenant-governor in the executive government of the province, and by such notification—

**Power to create executive councils for lieutenant-governors.**

- (a) make provision for determining what shall be the number (not exceeding four) and qualifications of the members of the council; and
- (b) make provision for the appointment of temporary or acting members of the council during the absence of any member from illness or otherwise <sup>4</sup>[and for supplying a vacancy until it is permanently filled], and for the procedure to be adopted in case of a difference of opinion between a lieutenant-governor and his council, and in the case of equality of votes, and in the case of a lieutenant-governor being obliged to absent himself from his council by indisposition or any other cause :

Provided that, before any such notification is published, a draft thereof shall be laid before each House of Parliament for not less than sixty days during the session of Parliament, and if, before the expiration of that time, an address is presented to His Majesty by either House of

<sup>1</sup> These words were substituted for the words "Each of the following provinces, namely, those known as Bihar and Orissa, the United Provinces of Agra and Oudh, the Punjab and " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The words "with or without an executive council" were omitted by *ibid.*

<sup>3</sup> Sub-section (3) was omitted by Part III of *ibid.*

<sup>4</sup> These words were inserted by *ibid.*



*(Part V.—Local Governments.)*

Parliament against the draft or any part thereof, no further proceedings shall be taken thereon, without prejudice to the making of any new draft.

(2) Every notification under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

(3) Every member of a lieutenant-governor's executive council shall be appointed by the Governor-General, with the approval of His Majesty.

**Vice-president  
of lieutenant-  
governor's  
council.**

56. A lieutenant-governor who has an executive council shall appoint a member of the council to be vice-president thereof, and that vice-president shall preside at meetings of the council in the absence of the lieutenant-governor.

**Business of  
lieutenant-  
governor in  
council.**

57. A lieutenant-governor who has an executive council may, with the consent of the Governor-General in Council, make rules and orders for more convenient transaction of business in the council, and every order made, or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the lieutenant-governor in council. <sup>1</sup>[An order made as aforesaid shall not be called into question in any legal proceedings on the ground that it was not duly made by the lieutenant-governor in council.]

**Chief  
Commissioners.**

58. Each of the following provinces, namely, those known as<sup>2</sup> [ \* \* \* ] the North-West Frontier Province, British Baluchistan, Delhi, Ajmer-Merwara, Coorg and the Andaman and Nicobar Islands, is, subject to the provisions of this Act, administered by a chief commissioner.

**Power to place  
territory under  
authority of  
Governor-  
General in  
Council.**

59. The Governor-General in Council may, with the approval of the Secretary of State, and by notification, take any part of British India under the immediate authority and management of the Governor-General in Council, and thereupon give all necessary orders and directions respecting the administration of that part, by placing it under a chief commissioner or by otherwise providing for its administration.

#### **Boundaries.**

**Power to declare  
and alter  
boundaries of  
provinces.**

60. The Governor-General in Council may, by notification, declare, appoint or alter the boundaries of any of the provinces into which British India is for the time being divided, and distribute the territories of British India

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The words "Assam, the Central Provinces" were omitted by 1944.

(Part V.—Local Governments. Part VI.—Indian Legislation.)

among the several provinces thereof in such manner as may seem expedient, subject to these qualifications, namely:—

- (1) an entire district may not be transferred from one province to another without the previous sanction of the Crown, signified by the Secretary of State in Council; and
- (2) any notification under this section may be disallowed by the Secretary of State in Council.

**61.** An alteration in pursuance of the foregoing provisions of the mode of administration of any part of British India, or of the boundaries of any part of British India, shall not affect the law for the time being in force in that part. Saving as to laws.

**62.** The Governor of Bengal in Council, the Governor of Madras in Council, and the Governor of Bombay in Council may, with the approval of the Secretary of State in Council and by notification, extend the limits of the towns of Calcutta, Madras and Bombay, respectively; and any act of Parliament, letters patent, charter, law or usage conferring jurisdiction, power or authority within the limits of those towns respectively shall have effect within the limits as so extended. Power to extend boundaries of presidency towns.

## PART VI.—Indian Legislation.

### The Indian Legislature.

<sup>1</sup>[**63.** Subject to the provisions of this Act, the Indian legislature shall consist of the Governor-General and two chambers, namely, the Council of State and the Legislative Assembly. Indian legislature.

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature, unless it has been agreed to by both chambers, either without amendment or with such amendments only as may be agreed to by both chambers.]

<sup>1</sup>[**63A.** (1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be official members. Council of State.

<sup>1</sup> Sections 63, 63A, 63B, 63C, 63D, 63E and 64 were substituted for sections 63 and 64 by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part VI.—Indian Legislation.)*

(2) The Governor-General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct.

(3) The Governor-General shall have the right of addressing the Council of State, and may for that purpose require the attendance of its members.]

**Legislative  
Assembly.**

<sup>1</sup>[**63B.** (1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act.

(2) The total number of members of the Legislative Assembly shall be one hundred and forty. The number of non-elected members shall be forty, of whom twenty-six shall be official members. The number of elected members shall be one hundred :

Provided that rules made under this Act may provide for increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so, however, that at least five-sevenths of the members of the Legislative Assembly shall be elected members, and at least one-third of the other members shall be non-official members.

(3) The Governor-General shall have the right of addressing the Legislative Assembly, and may for that purpose require the attendance of its members.]

**President of  
Legislative  
Assembly.**

<sup>1</sup>[**63C.** (1) There shall be a president of the Legislative Assembly, who shall, until the expiration of four years from the first meeting thereof, be a person appointed by the Governor-General, and shall thereafter be a member of the Assembly elected by the Assembly and approved by the Governor-General :

Provided that, if at the expiration of such period of four years the Assembly is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the ensuing session.

(2) There shall be a deputy-president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor-General.

*(Part VI.—Indian Legislation.)*

(3) The appointed president shall hold office until the date of the election of a president under this section, but he may resign his office by writing under his hand addressed to the Governor-General, or may be removed from office by order of the Governor-General, and any vacancy occurring before the expiration of his term of office shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office if they cease to be members of the Assembly. They may resign office by writing under their hands addressed to the Governor-General, and may be removed from office by a vote of the Assembly with the concurrence of the Governor-General.

(5) A president and deputy-president shall receive such salaries as may be determined, in the case of an appointed president by the Governor-General, and in the case of an elected president and a deputy-president by Act of the Indian legislature.]

<sup>1</sup>[**63D.** (1) Every Council of State shall continue for five years, and every Legislative Assembly for three years, from its first meeting :

Provided that—

- (a) either chamber of the legislature may be sooner dissolved by the Governor-General; and
- (b) any such period may be extended by the Governor-General if in special circumstances he so thinks fit; and
- (c) after the dissolution of either chamber the Governor-General shall appoint a date not more than six months, or with the sanction of the Secretary of State not more than nine months, after the date of dissolution for the next session of that chamber.

(2) The Governor-General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions.

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding.

(4) All questions in either chamber shall be determined by a majority of votes of members present other than the

**Duration and sessions of Legislative Assembly and Council of State.**

<sup>1</sup> See the footnote on page 41, ante.

*(Part VI.—Indian Legislation.)*

presiding member, who shall, however, have and exercise a casting vote in the case of an equality of votes.

(5) The powers of either chamber of the Indian legislature may be exercised, notwithstanding any vacancy in the chamber.]

**Membership  
of both  
chambers.**

<sup>1</sup>[**63E.** (1) An official shall not be qualified for election as a member of either chamber of the Indian legislature, and if any non-official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant.

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat in such first-mentioned chamber shall thereupon become vacant.

(3) If any person is elected a member of both chambers of the Indian legislature, he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall become vacant.

(4) Every member of the Governor-General's executive council shall be nominated as a member of one chamber of the Indian legislature, and shall have the right of attending in and addressing the other chamber, but shall not be a member of both chambers.]

**Supplementary  
provisions  
as to  
composition  
of Legislative  
Assembly  
and Council of  
State.**

<sup>1</sup>[**64.** (1) Subject to the provisions of this Act, provision may be made by rules under this Act as to—

- (a) the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted, or otherwise; and
- (b) the conditions under which and the manner in which persons may be nominated as members of the Council of State or the Legislative Assembly; and
- (c) the qualification of electors, the constitution of constituencies, and the method of election for the Council of State and the Legislative Assembly (including the number of members to be elected

<sup>1</sup> See the footnote on page 41, ante.

*(Part VI.—Indian Legislation.)*

- by communal and other electorates) and any matters incidental or ancillary thereto; and
- (d) the qualifications for being or for being nominated or elected as members of the Council of State or the Legislative Assembly; and
  - (e) the final decision of doubts or disputes as to the validity of an election; and
  - (f) the manner in which the rules are to be carried into effect.

(2) Subject to any such rules, any person who is a ruler or subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly.]

**65.** (1) The <sup>1</sup>[Indian legislature] has power to make laws—

Power of  
Indian  
legislature.

- (a) for all persons, for all courts, and for all places and things, within British India; and
- (b) for all subjects of His Majesty and servants of the Crown within other parts of India; and
- (c) for all native Indian subjects of His Majesty, without and beyond as well as within British India; and
- (d) for the Government officers, soldiers <sup>2</sup>[airmen], and followers in His Majesty's Indian forces, wherever they are serving, in so far as they are not subject to the Army Act <sup>3</sup>[or the Air Force Act]; and
- (e) for all persons employed or serving in or belonging to the Royal Indian Marine Service; and
- (f) for repealing or altering any laws which for the time being are in force in any part of British India or apply to persons for whom the <sup>1</sup>[Indian legislature] has power to make laws.

(2) Provided that the <sup>1</sup>[Indian legislature] has not, unless expressly so authorised by Act of Parliament, power to make any law repealing or affecting—

- (i) any Act of Parliament passed after the year one thousand eight hundred and sixty and extending to British India (including The Army Act, <sup>2</sup>[the Air Force Act] and any Act amending the same); or

<sup>1</sup> These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were inserted by Part III of *ibid.*

*(Part VI.—Indian Legislation.)*

- (ii) any Act of Parliament enabling the Secretary of State in Council to raise money in the United Kingdom for the government of India;

and has not power to make any law affecting the authority of Parliament, or any part of the unwritten laws or constitution of the United Kingdom of Great Britain and Ireland whereon may depend in any degree the allegiance of any person to the Crown of the United Kingdom, or affecting the sovereignty or dominion of the Crown over any part of British India.

(3) The.<sup>1</sup>[Indian legislature] has not power, without the previous approval of the Secretary of State in Council, to make any law empowering any court, other than a high court, to sentence to the punishment of death any of His Majesty's subjects born in Europe, or the children of such subjects, or abolishing any high court.

**Laws for the  
Royal Indian  
Marine Service.**

**66.** (1) A law made under this Act for the Royal Indian Marine Service shall not apply to any offence, unless the vessel to which the offender belongs is at the time of the commission of the offence within the limits of Indian waters, that is to say, the high seas between the Cape of Good Hope on the West and the Straits of Magellan on the East, and any territorial waters between those limits.

(2) The punishments imposed by any such law for offences shall be similar in character to, and not in excess of, the punishments which may, at the time of making the law, be imposed for similar offences under the Acts relating to His Majesty's Navy, except that, in the case of persons other than Europeans or Americans, imprisonment for any term not exceeding fourteen years, or transportation for life or any less term, may be substituted for penal servitude.

**Business and  
proceedings  
in Indian  
legislature.**

**67.** <sup>2</sup>[(1) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the persons to preside at the meetings of the Legislative Assembly in the absence of the president and the deputy-president; and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the rules.]

<sup>1</sup> These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sec. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> This sub-section was substituted by Part I of 1944.

*(Part VI.—Indian Legislation.)*

(2) It shall not be lawful, without the previous sanction of the Governor-General, to introduce at any meeting of <sup>1</sup>[either chamber of the Indian legislature] any measure affecting—

- (a) the public debt or public revenues of India or imposing any charge on the revenues of India; or
- (b) the religion or religious rites and usages of any class of British subjects in India; or
- (c) the discipline or maintenance of any part of His Majesty's military, <sup>2</sup>[naval or air], forces; or
- (d) the relations of the Government with foreign princes or states:

<sup>3</sup>[or any measure—

- (i) regulating any provincial subject, or any part of a provincial subject, which has not been declared by rules under this Act to be subject to legislation by the Indian legislature; or
- (ii) repealing or amending any Act of a local legislature; or
- (iii) repealing or amending any Act or ordinance made by the Governor-General.]

<sup>4</sup>[(2a) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any amendment to a Bill is moved, or proposed to be moved, the Governor-General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquility of British India, or any part thereof, and may direct that no proceedings, or that no further proceedings, shall be taken by the chamber in relation to the Bill, clause, or amendment, and effect shall be given to such direction.]

<sup>5</sup>[(3) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber, passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers, the Governor-General may in his discretion refer the matter for decision to a joint sitting of both chambers: Provided that standing orders

<sup>1</sup> These words were substituted for the words "the Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were substituted for the words "or naval" by Part III of *ibid*.

<sup>3</sup> These clauses were inserted by Part II of *ibid*.

<sup>4</sup> Sub section (2a) was inserted by *ibid*.

<sup>5</sup> Sub-sections (3), (4), (5), (6), & (7) were substituted for sub-section (3) by Part I of *ibid*.



*(Part VI.—Indian Legislation.)*

made under this section may provide for the members of both chambers appointed for the order to discuss any difference of opinion which exists between the two chambers.]

<sup>1</sup>[(4) Without prejudice to the powers of the Governor-General under section sixty-eight of this Act, the Governor-General may, where a Bill has been passed by both chambers of the Indian legislature, return the Bill for reconsideration by either chamber.]

<sup>1</sup>[(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section.]

<sup>1</sup>[(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as those matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor-General in Council, but may, with the consent of the Governor-General, be altered by the chamber to which they relate.

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void.]

<sup>1</sup>[(7) Subject to the rules and standing orders affecting the chamber, there shall be freedom of speech in both chambers of the Indian legislature. No person shall be liable to any proceedings in any court by reason of any speech or vote in either chamber, or by reason of any statement contained in any official report of the proceedings of either chamber.]

<sup>1</sup>[67A. (1) The estimated annual expenditure and revenue of the Governor-General in Council shall be laid in the form of a statement before both chambers of the Indian legislature in each year.

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor-General.

(3) The proposals of the Governor-General for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to

Indian  
Budget.

<sup>1</sup> Sub-sections (2), (4), (5), (6) & (7) were substituted for sub-section (2) by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> Section 67A was inserted by *ibid.*

*(Part VI.—Indian Legislation.)*

the vote of the Legislative Assembly, nor shall they be open to discussion by either chamber at the time when the annual statement is under consideration, unless the Governor-General otherwise directs:—

- (i) interest and sinking fund charges on loans; and
- (ii) expenditure of which the amount is prescribed by or under any law; and
- (iii) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and
- (iv) salaries of chief commissioners and judicial commissioners; and
- (v) expenditure classified by the order of the Governor-General in Council as —
  - (a) ecclesiastical;
  - (b) political;
  - (c) defence.

(4) If any question arises as to whether any proposed appropriation of revenue or moneys does or does not relate to the above heads, the decision of the Governor-General on the question shall be final.

(5) The proposals of the Governor-General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants.

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant.

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor-General in Council, who shall, if he declares that he is satisfied that any demand which has been refused by the Legislative Assembly is essential to the discharge of his responsibilities, act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, by the Legislative Assembly.

(8) Notwithstanding anything in this section, the Governor-General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquility of British India or any part thereof.]

*(Part VI.—Indian Legislation.)*

Provision for  
case of  
failure to  
pass legislation.

<sup>1</sup>[**67B.** (1) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended by the Governor-General, any Bill, the Governor-General may certify that the passage of the Bill is essential for the safety, tranquillity or interests of British India or any part thereof, and thereupon—

(a) If the Bill has already been passed by the other chamber, the Bill shall, on signature by the Governor-General, notwithstanding that it has not been consented to by both chambers, forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature, or (as the case may be) in the form recommended by the Governor-General; and

(b) If the Bill has not already been so passed, the Bill shall be laid before the other chamber, and, if consented to by that chamber in the form recommended by the Governor-General, shall become an Act as aforesaid on the signification of the Governor-General's assent, or, if not so consented to, shall, on signature by the Governor-General, become an Act as aforesaid.

(2) Every such Act shall be expressed to be made by the Governor-General, and shall, as soon as practicable after being made, be laid before both Houses of Parliament, and shall not have effect until it has received His Majesty's assent, and shall not be presented for His Majesty's assent until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat; and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duly assented to:

Provided that where, in the opinion of the Governor-General, a state of emergency exists which justifies such action, the Governor-General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.]

<sup>1</sup> Sections 67B was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

## (Part VI.—Indian Legislation.)

**68.** (1) When <sup>1</sup>[a Bill] has been passed <sup>2</sup>[by both chambers of the Indian legislature], the Governor-General, <sup>3</sup>[\* \* \*], may declare that he assents to the '[Bill]', or that he withholds assent from the '[Bill]', or that he reserves the '[Bill]' for the signification of His Majesty's pleasure thereon.

Assent of  
Governor-General  
to Bills

(2) <sup>4</sup>[A Bill passed by both chambers of the Indian legislature shall not become an Act] until the Governor-General has declared his assent thereto, or, in the case of <sup>5</sup>[a Bill] reserved for the signification of His Majesty's pleasure, until His Majesty <sup>7</sup>[in Council] has signified his assent <sup>8</sup>[\* \* \*], and that assent has been notified by the Governor-General.

**69.** (1) When an Act of the <sup>9</sup>[Indian legislature] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty <sup>7</sup>[in Council] to signify <sup>10</sup>[\* \* \*] his disallowance of any such Act.

Power of Crown  
to disallow Acts.

(2) Where the disallowance of any such Act has been so signified, the Governor-General shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

**70.** [*Rules for conduct of legislative business*].—  
Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

## Regulations and Ordinances.

**71.** (1) The local Government of any part of British India to which this section for the time being applies may propose to the Governor-General in Council the draft of any regulation for the peace and good government of that part, with the reasons for proposing the regulation.

Power to make  
regulations.

(2) Thereupon the Governor-General in Council may take any such draft and reasons into consideration; and when any such draft has been approved by the Governor-General in Council and assented to by the Governor-General, it shall be published in the *Gazette of India* and

<sup>1</sup> These words were substituted for the words "an Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were substituted for the words "at a meeting of the Indian Legislative Council" by *ibid.*

<sup>3</sup> The words "whether he was or was not present in Council at the passing thereof" were omitted by *ibid.*

<sup>4</sup> This word was substituted for the word "Act" by *ibid.*

<sup>5</sup> These words were substituted for the words "An Act of the Governor-General in Legislative Council has not validity" by *ibid.*

<sup>6</sup> These words were substituted for the words "An Act" by *ibid.*

<sup>7</sup> These words were inserted by *ibid.*

<sup>8</sup> The words "to the Governor-General through the Secretary of State in Council" were omitted by *ibid.*

<sup>9</sup> These words were substituted for the words "Governor-General in Legislative Council" by *ibid.*

<sup>10</sup> The words "through the Secretary of State in Council" were omitted by *ibid.*

*(Part VI.—Indian Legislation.)*

in the local official gazette; if any, and shall thereupon have the like force of law and be subject to the like disallowance as if it were an Act of the <sup>1</sup>[Indian legislature].

(3) The Governor-General shall send to the Secretary of State in Council an authentic copy of every regulation to which he has assented under this section.

<sup>2</sup>[(3a) A regulation made under this section for any territory shall not be invalid by reason only that it confers or delegates power to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory.]

(4) The Secretary of State may, by resolution in council, apply this section to any part of British India, as from a date to be fixed in the resolution, and withdraw the application of this section from any part to which it has been applied.

**Power to make ordinances in cases of emergency.**

**72.** The Governor-General may, in cases of emergency, make and promulgate ordinances for the peace and good government of British India or any part thereof, and any ordinance so made shall, for the space of not more than six months from its promulgation, have the like force of law as an Act passed by the <sup>1</sup>[Indian legislature], but the power of making ordinances under this section is subject to the like restrictions as the power of the <sup>1</sup>[Indian legislature] to make laws; and any ordinance made under this section is subject to the like disallowance as an Act passed by the <sup>1</sup>[Indian legislature] and may be controlled or superseded by any such Act.

### **Local Legislatures.**

#### **(a) Governors' Provinces.**

**Composition of governors' legislative councils.**

<sup>3</sup>[**72A.** (1) There shall be a legislative council in every governor's province, which shall consist of the members of the executive council and of members nominated or elected as provided by this Act.

The governor shall not be a member of the legislative council, but shall have the right of addressing the council,

<sup>1</sup> These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> This sub-section was inserted by section 2 (1) of the Government of India (Amendment) Act 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>3</sup> Sections 72A, 72B, 72C, 72D, and 72E were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part VI.—Indian Legislation.)*

and may for that purpose require the attendance of its members.

(2) The number of members of the governors' legislative councils shall be in accordance with the table set out in the First Schedule to this Act; and of the members of each council not more than twenty per cent. shall be official members, and at least seventy per cent. shall be elected members:

Provided that—

- (a) subject to the maintenance of the above proportions rules under this Act may provide for increasing the number of members of any council, as specified in that schedule; and
  - (b) the governor may, for the purpose of any Bill introduced or proposed to be introduced in his legislative council, nominate, in the case of Assam, one person, and in the case of other provinces not more than two persons, having special knowledge or experience of the subject-matter of the Bill, and those persons shall, in relation to the Bill, have for the period for which they are nominated all the rights of members of the council, and shall be in addition to the numbers above referred to; and
  - (c) members nominated to the legislative council of the Central Provinces by the governor as the result of elections held in the Assigned Districts of Berar shall be deemed to be elected members of the legislative council of the Central Provinces.
- (3) The powers of a governor's legislative council may be exercised, notwithstanding any vacancy in the council.
- (4) Subject as aforesaid, provision may be made by rules under this Act as to—
- (a) the term of office of nominated members of governors' legislative councils, and the manner of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death, acceptance of office, resignation duly accepted, or otherwise; and
  - (b) the conditions under which and manner in which persons may be nominated as members of governors' legislative councils; and
  - (c) the qualification of electors, the constitution of constituencies, and the method of election for governors' legislative councils, including the

*(Part VI.—Indian Legislation.)*

number of members to be elected by communal and other electorates, and any matters incidental or ancillary thereto; and

- (d) the qualification for being and for being nominated or elected a member of any such council; and
- (e) the final decision of doubts or disputes as to the validity of any election; and
- (f) the manner in which the rules are to be carried into effect:

Provided that rules as to any such matters as aforesaid may provide for delegating to the local government such power as may be specified in the rules of making subsidiary regulations affecting the same matters.

(5) Subject to any such rules, any person who is a rule or subject of any state in India may be nominated as a member of a governor's legislative council.

NOTE.—For the Bengal Electoral Rules, see page 141 *post*. For the Bengal Electoral Regulations, see page 185, *post*.

<sup>1</sup>[72B. (1) Every governor's legislative council shall continue for three years from its first meeting:

Provided that—

- (a) the council may be sooner dissolved by the governor; and
- (b) the said period may be extended by the governor for a period not exceeding one year, by notification in the official gazette of the province, if in special circumstances (to be specified in the notification) he so think fit; and
- (c) after the dissolution of the council the governor shall appoint a date not more than six months or, with the sanction of the Secretary of State, not more than nine months from the date of dissolution for the next session of the council.

(2) A governor may appoint such times and places for holding the sessions of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council.

(3) Any meeting of a governor's legislative council may be adjourned by the person presiding.

(4) All questions in a governor's legislative council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.]

<sup>1</sup> See footnote \* on page 52, *ante*.

*(Part VI.—Indian Legislation.)*

<sup>1</sup>[**72C.** (1) There shall be a president of a governor's legislative council, who shall, until the expiration of a period of four years from the first meeting of the council as constituted under this Act, be a person appointed by the governor, and shall thereafter be a member of the council elected by the council and approved by the governor:

**Presidents  
of governors'  
legislative  
councils.**

Provided that, if at the expiration of such period of four years the council is in session, the president then in office shall continue in office until the end of the current session, and the first election of a president shall take place at the commencement of the next ensuing session.

(2) There shall be a deputy-president of a governor's legislative council, who shall preside at meetings of the council in the absence of the president, and who shall be a member of the council elected by the council and approved by the governor.

(3) The appointed president of a council shall hold office until the date of the first election of a president by the council under this section, but he may resign office by writing under his hand addressed to the governor, or may be removed from office by order of the governor, and any vacancy occurring before the expiration of the term of office of an appointed president shall be filled by a similar appointment for the remainder of such term.

(4) An elected president and a deputy-president shall cease to hold office on ceasing to be members of the council. They may resign office by writing under their hands addressed to the governor, and may be removed from office by a vote of the council with the concurrence of the governor.

(5) The president and the deputy-president shall receive such salaries as may be determined, in the case of an appointed president, by the governor, and, in the case of an elected president or deputy-president, by Act of the local legislature.]

<sup>1</sup>[**72D.** (1) The provisions contained in this section shall have effect with respect to business and procedure in governors' legislative councils.

**Business and  
procedure in  
governors'  
legislative  
councils.**

(2) The estimated annual expenditure and revenue of the province shall be laid in the form of a statement before the council in each year, and the proposals of the local

<sup>1</sup> See footnote <sup>2</sup> on page 52. ante.



*(Part VI.—Indian Legislation.)*

government for the appropriation of provincial revenues and other moneys in any year shall be submitted to the vote of the council in the form of demands for grants. The council may assent, or refuse its assent, to a demand, or may reduce the amount therein referred to either by a reduction of the whole grant or by the omission or reduction of any of the items of expenditure of which the grant is composed:

Provided that—

- (a) the local government shall have power, in relation to any such demand, to act as if it had been assented to, notwithstanding the withholding of such assent or the reduction of the amount therein referred to, if the demand relates to a reserved subject, and the governor certifies that the expenditure provided for by the demand is essential to the discharge of his responsibility for the subject; and
- (b) the governor shall have power in cases of emergency to authorise such expenditure as may be, in his opinion, necessary for the safety or tranquillity of the province, or for the carrying on of any department; and
- (c) no proposal for the appropriation of any such revenues or other moneys for any purpose shall be made, except on the recommendation of the governor, communicated to the council.

(3) Nothing in the foregoing sub-section shall require proposals to be submitted to the council relating to the following heads of expenditure:—

- (i) contributions payable by the local government to the Governor-General in Council; and
- (ii) interest and sinking fund charges on loans; and
- (iii) expenditure of which the amount is prescribed by or under any law; and
- (iv) salaries and pensions of persons appointed by or with the approval of His Majesty or by the Secretary of State in Council; and
- (v) salaries of judges of the high court of the province and of the advocate-general.

If any question arises whether any proposed appropriation of moneys does or does not relate to the above heads of expenditure, the decision of the governor shall be final.

*(Part VI.—Indian Legislation.)*

(4) Where any Bill has been introduced or is proposed to be introduced, or any amendment to a Bill is moved or proposed to be moved, the governor may certify that the Bill or any clause of it or the amendment affects the safety or tranquillity of his province or any part of it or of another province, and may direct that no proceedings or no further proceedings shall be taken by the council in relation to the Bill, clause or amendment, and effect shall be given to any such direction.

(5) Provision may be made by rules under this Act for the purpose of carrying into effect the foregoing provisions of this section and for regulating the course of business in the council, and as to the persons to preside over meetings thereof in the absence of the president and deputy-president, and the preservation of order at meetings; and the rules may provide for the number of members required to constitute a quorum and for prohibiting or regulating the asking of questions on and the discussion of any subject specified in the rules.

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in the council, in so far as these matters are not provided for by rules made under this Act. The first standing orders shall be made by the Governor in council, but may, subject to the assent of the Governor, be altered by the local legislatures. Any standing order made as aforesaid, which is repugnant to the provisions of any rules made under this Act, shall, to the extent of that repugnancy but not otherwise, be void.

(7) Subject to the rules and standing orders affecting the council, there shall be freedom of speech in the Governors' legislative councils. No person shall be liable to any proceedings in any court by reason of his speech or vote in any such council, or by reason of anything contained in any official report of the proceedings of any such council.]

NOTE.—For the Bengal Legislative Council Rules and Standing Orders see page 237, *post*.

<sup>1</sup>[72E. (1) Where a governor's legislative council has refused leave to introduce, or has failed to pass in a form recommended by the governor, any Bill relating to a reserved subject, the governor may certify that the passage of the Bill is essential for the discharge of his responsibility for

**Provision for  
case of failure  
to pass  
legislation in  
governors'  
councils.**

<sup>1</sup> See footnote \* on page 52, *ante*.

*(Part VI.—Indian Legislation.)*

the subject, and thereupon the Bill shall, notwithstanding that the council have not consented thereto, be deemed to have passed, and shall on signature by the governor become an Act of the local legislature in the form of the Bill as originally introduced or proposed to be introduced in the council or (as the case may be) in the form recommended to the council by the governor.

(2) Every such Act shall be expressed to be made by the governor, and the governor shall forthwith send an authentic copy thereof to the Governor-General, who shall reserve the Act for the signification of His Majesty's pleasure, and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor-General, the Act shall have the same force and effect as an Act passed by the local legislature and duly assented to:

Provided that where, in the opinion of the Governor-General, a state of emergency exists which justifies such action, he may, instead of reserving such Act, signify his assent thereto, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by His Majesty in Council.

(3) An Act made under this section shall, as soon as practicable after being made, be laid before each House of Parliament, and an Act which is required to be presented for His Majesty's assent shall not be so presented until copies thereof have been laid before each House of Parliament for not less than eight days on which that House has sat.]

**(b)—Lieutenant-Governors' and Chief Commissioners' Provinces.**

**Legislative  
councils of  
lieutenant-  
governors and  
chief  
commissioners.**

**73.** (1) For purposes of legislation, the council of <sup>1</sup>[ \* \* \* ] a lieutenant-governor having an executive council shall consist of the members of his executive council <sup>2</sup>[and of members nominated or elected as hereinafter provided].

<sup>3</sup>(2) \* \* \* \*

(3) The legislative council of a lieutenant-governor not having an executive council, or of a chief commissioner, shall consist of members nominated or elected '[as hereinafter provided].

<sup>5</sup>(4) \* \* \* \*

<sup>1</sup> The words "a governor, or of" were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were substituted for the words "with the addition of members nominated or elected in accordance with rules made under this Act" by *ibid.*

<sup>3</sup> Sub-section (2) was omitted by Part III of *ibid.*

<sup>4</sup> These words were substituted for the words "in accordance with rules made under this Act" by Part II of *ibid.*

<sup>5</sup> Sub-section (4) was omitted by *ibid.*

*(Part VI.—Indian Legislation.)*

**74.** [*Constitution of legislative councils in Bengal, Madras and Bombay.*] Omitted by Part II of Schedule II of 9 & 10 Geo. 5, Ch. 101.

**75.** [*Meetings of legislative councils of Bengal, Madras and Bombay.*] Omitted by Part II of Schedule II of 9 & 10 Geo. 5, Ch. 101.

**76.** (1) The number of members nominated or elected to the legislative council of a lieutenant-governor or chief commissioner, the number of such members required to constitute a quorum, the term of office of such members and the manner of filling casual vacancies<sup>1</sup> occurring by reason of absence from India, inability to attend to duty, death, acceptance of office, or resignation duly accepted or otherwise shall, in the case of each such council, be such as may be prescribed by rules made under this<sup>1</sup>[section]:

**Constitution of legislative councils of lieutenant-governors and chief commissioners.**

<sup>2</sup>[Provided that the number of members so nominated or elected shall not, in the case of the legislative council of a lieutenant-governor, exceed one hundred.]

(2) At least one-third of the persons so nominated or elected to the legislative council of a lieutenant-governor or chief commissioner must be<sup>3</sup>[non-officials].

(3) The Governor-General in Council may, with the approval of the Secretary of State in Council, make rules as to the conditions under which and manner in which persons resident in India may be nominated or elected members of any of those legislative councils, and as to the qualifications for being and for being nominated or elected a member of any of those councils, and as to any other matter for which rules are authorised to be made under this section, and as to the manner in which those rules are to be carried into effect.

<sup>4</sup>[(3a) Rules made under this section may provide for the final decision of doubts or disputes as to the validity of an election.]

<sup>4</sup>[(3b) Subject to any rules made under this section, any person who is a ruler or subject of any state in India shall be eligible to be nominated a member of a legislative council.]

(4) All rules made under this section shall be laid before both Houses of Parliament as soon as may be after

<sup>1</sup> This word was substituted for the word "Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> This proviso was substituted by *ibid.*

<sup>3</sup> This word was substituted for the words "persons not in the civil or military service of the Crown in India" by *ibid.*

<sup>4</sup> Sub-sections (3a) and (3b) were inserted by section 1 (2) of the Government of India (Amendment) Act, 1918, (6 & 7 Geo. 5, Ch. 37).

*(Part VI.—Indian Legislation.)*

they are made, and those rules shall not be subject to repeal or alteration by the <sup>1</sup>[Indian legislature or the local legislature].

**Power to constitute local legislatures in lieutenant-governors' and chief commissioners' provinces.**

**77.** (1) When a new lieutenant-governorship is constituted under this Act, the Governor-General in Council may, by notification, with the sanction of His Majesty previously signified by the Secretary of State in Council, constitute the lieutenant-governor in legislative council of the province, as from a date specified in the notification, a local legislature for that province, and define the limits of the province for which the lieutenant-governor in legislative council is to exercise legislative powers.

(2) The Governor-General in Council may, by notification, extend the provisions of this Act relating to legislative councils of lieutenant-governors, subject to such modifications and adaptations as he may consider necessary, to any province for the time being under a chief commissioner.

**Meetings of legislative councils of lieutenant-governors and chief commissioners.**

**78.** (1) <sup>2</sup>[A lieutenant-governor or a chief commissioner who has a legislative council may appoint such times and places for holding the session of his legislative council as he thinks fit, and may also, by notification or otherwise, prorogue the council, and any meeting of the legislative council of a lieutenant-governor or chief commissioner may be adjourned by the person presiding.] Every lieutenant-governor who has no executive council, and every chief commissioner who has a legislative council, shall appoint a member of his legislative council to be vice-president thereof.

(2) In the absence of the lieutenant-governor or chief commissioner from any meeting of his legislative council the person to preside thereat shall be the vice-president of the council, or, in his absence, the member of the council who is highest in official rank among those holding office under the Crown who are present at the meeting, or, during the discussion of the annual financial statement or of any matter of general public interest <sup>3</sup>[or when questions are asked], the vice-president, or the member appointed to preside <sup>4</sup>[\* \* \*].

<sup>5</sup>[(3) All questions at a meeting of the legislative council of a lieutenant-governor or chief commissioner shall

<sup>1</sup> These words were substituted for the words " Governor-General in Legislative Council " by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were inserted by *ibid.*

<sup>3</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>4</sup> The words " in accordance with rules made under this Act " were omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>5</sup> Sub-sections (3) and (4) were substituted for sub-sections (3) by *ibid.*

*(Part VI.—Indian Legislation.)*

be determined by a majority of votes of the members present other than the lieutenant-governor, chief commissioner, or presiding member, who shall, however, have and exercise a casting vote in case of an equality of votes.]

<sup>1</sup>[(4) Subject to rules affecting the council, there shall be freedom of speech in the legislative councils of lieutenant-governors and chief commissioners. No person shall be liable to any proceedings in any court by reason of his speech or vote in those councils, or by reason of anything contained in any official report of the proceedings of those councils.]

**79.** [*Powers of local legislatures.*].—Omitted by Part II of Sch. II of 9 & 10 Geo. 5, Ch. 101.

**80.** (1) At a meeting of a local legislative council <sup>2</sup>[(other than a governor's legislative council)] no motion shall be entertained other than a motion for leave to introduce a measure into the council for the purpose of enactment, or having reference to a measure introduced or proposed to be introduced into the council for that purpose, or having reference to some rule for the conduct of business in the council, and no business shall be transacted other than the consideration of those motions or the alteration of those rules.

**Business at meetings of councils of lieutenant-governors and chief commissioners.**

<sup>3</sup>(2) \* \* \* \* \*

(3) Notwithstanding anything in the foregoing provisions of this section, the local government <sup>4</sup>[of a province other than a governor's province] may, with the sanction of the Governor-General in Council, make rules authorising, at any meeting of the local legislative council, the discussion of the annual financial statement of the local government, and of any matter of general public interest, and the asking of questions, under such conditions and restrictions as may be prescribed in the rules. Rules made under this sub-section for any council may provide for the appointment of a member of the council to preside at any such discussion <sup>5</sup>[or when questions are asked] in the place of the <sup>6</sup>[ \* ] lieutenant-governor or chief commissioner, as the case may be, and of the vice-president, and shall be laid before both Houses of Parliament as soon as may be after

<sup>1</sup> Sub-sections (3) and (4) were substituted for sub-section (3) by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101.)

<sup>2</sup> These words were inserted by *ibid.*

<sup>3</sup> Sub-section (2) was omitted by *ibid.*

<sup>4</sup> These words were inserted by *ibid.*

<sup>5</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>6</sup> The word "governor" was omitted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part VI.—Indian Legislation.)*

they are made, and shall not be subject to repeal or alteration by the <sup>1</sup>[Indian legislature] or the local legislature.

<sup>2</sup>[(4) The local government of any province (other than a governor's province) for which a local legislative council is hereafter constituted under this Act shall, before the first meeting of that council, and with the sanction of the Governor-General in Council, make rules for the conduct of legislative business in that council (including rules for prescribing the mode of promulgation and authentication of laws passed by that council).]

<sup>2</sup>[(5) The local legislature of any such province may, subject to the assent of the lieutenant-governor or chief commissioner, alter the rules for the conduct of legislative business in the local council (including rules prescribing the mode of promulgation and authentication of laws passed by the council), but any alteration so made may be disallowed by the Governor-General in Council, and if so disallowed shall have no effect.]

**(c)—General.****Powers of local legislatures.**

<sup>3</sup>[**80A.** (1) The local legislature of any province has power, subject to the provisions of this Act, to make laws for the peace and good government of the territories for the time being constituting that province.

(2) The local legislature of any province may, subject to the provisions of the sub-section next following, repeal or alter as to that province any law made either before or after the commencement of this Act by any authority in British India other than that local legislature.

(3) The local legislature of any province may not, without the previous sanction of the Governor-General, make or take into consideration any law—

(a) imposing or authorising the imposition of any new tax, unless the tax is a tax scheduled as exempted from this provision by rules made under this Act; or

NOTE.—For the Scheduled Taxes Rules, see page, 135 *post*.

(b) affecting the public debt of India, or the customs duties, or any other tax or duty for the time being in force and imposed by the authority of

<sup>1</sup> These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101.)

<sup>2</sup> Sub-sections (4) and (5) were inserted by *ibid*.

<sup>3</sup> Section 80A was inserted by Part I of *ibid*.

*(Part VI.—Indian Legislation.)*

the Governor-General in Council for the general purposes of the government of India, provided that the imposition or alteration of a tax scheduled as aforesaid shall not be deemed to affect any such tax or duty; or

- (c) affecting the discipline or maintenance of any part of His Majesty's naval, military, or air forces; or
- (d) affecting the relations of the government with foreign princes or states; or
- (e) regulating any central subject; or
- (f) regulating any provincial subject which has been declared by rules under this Act to be, either in whole or in part, subject to legislation by the Indian legislature, in respect of any matter to which such declaration applies; or
- (g) affecting any power expressly reserved to the Governor-General in Council by any law for the time being in force; or
- (h) altering or repealing the provisions of any law which, having been made before the commencement of the Government of India Act, 1919, by any authority in British India other than that local legislature, is declared by rules under this Act to be a law which cannot be repealed or altered by the local legislature without previous sanction; or

NOTE.—For the Local Legislatures (Previous Sanction) Rules, *see* page 137, *post*.

- (i) altering or repealing any provision of an Act of the Indian legislature made after the commencement of the Government of India Act, 1919, which by the provisions of such first-mentioned Act may not be repealed or altered by the local legislature without previous sanction:

Provided that an Act or a provision of an Act made by a local legislature, and subsequently assented to by the Governor-General in pursuance of this Act, shall not be deemed invalid by reason only of its requiring the previous sanction of the Governor-General under this Act.

(4) The local legislature of any province has not power to make any law affecting any Act of Parliament.]



*(Part VI.—Indian Legislation.)*

**Vacation of  
seats in local  
legislative  
council.**

<sup>1</sup>[**80B.** An official shall not be qualified for election as a member of a local legislative council, and if any non-official member of a local legislative council, whether elected or nominated, accepts any office in the service of the Crown in India, his seat on the council shall become vacant:

Provided that for the purposes of this provision a minister shall not be deemed to be an official and a person shall not be deemed to accept office on appointment as a minister.]

**Financial  
proposals.**

<sup>1</sup>[**80C.** It shall not be lawful for any member of any local legislative council to introduce, without the previous sanction of the governor, lieutenant-governor or chief commissioner, any measure affecting the public revenues of a province, or imposing any charge on those revenues.]

**Assent to  
Bills.**

**81.** (1) When <sup>2</sup>[a Bill] has been passed <sup>3</sup>[by] a local legislative council, the governor, lieutenant-governor or chief commissioner <sup>4</sup>[\* \* \* \*] may declare that he assents to or withholds his assent from the <sup>5</sup>[Bill].

(2) If the governor, lieutenant-governor or chief commissioner withholds his assent from any such <sup>5</sup>[Bill], the <sup>5</sup>[Bill] "shall not become an Act".

(3) If the governor, lieutenant-governor or chief commissioner assents to any such <sup>5</sup>[Bill], he shall forthwith send an authentic copy of the Act to the Governor-General, and the Act shall not have validity until the Governor-General has assented thereto and that assent has been signified by the Governor-General to, and published by, the governor, lieutenant-governor or chief commissioner.

(4) Where the Governor-General withholds his assent from any such Act, he shall signify to the governor, lieutenant-governor or chief commissioner in writing his reason for so withholding his assent.

**Return and  
reservation  
of Bills.**

<sup>1</sup>[**81A.** (1) Where a Bill has been passed by a local legislative council, the governor, lieutenant-governor or chief commissioner may, instead of declaring that he assents to or withholds his assent from the Bill, return the Bill to the council for reconsideration, either in whole or in part, together with any amendments which he may

<sup>1</sup> Sections 80B, 80C and 81A were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101)

<sup>2</sup> These words were substituted for the words "an Act" by *ibid.*

<sup>3</sup> This word was substituted for the words "at a meeting of" by *ibid.*

<sup>4</sup> The words "whether he was or was not present in council at the passing of the Act" were omitted by Part III of *ibid.*

<sup>5</sup> This word was substituted for the word "Act" by Part II of *ibid.*

<sup>6</sup> These words were substituted for the words "has no effect" by *ibid.*

*(Part VI.—Indian Legislation.)*

recommend, or, in cases prescribed by rules under this Act, may, and, if the rules so require, shall, reserve the Bill for the consideration of the Governor-General.

NOTE.—For the Reservation of Bills Rules, see page 138, *post*.

(2) Where a Bill is reserved for the consideration of the Governor-General, the following provisions shall apply:—

(a) The governor, lieutenant-governor or chief commissioner may, at any time within six months from the date of the reservation of the Bill, with the consent of the Governor-General, return the Bill for further consideration by the council with a recommendation that the council shall consider amendments thereto:

(b) After any Bill so returned has been further considered by the council, together with any recommendations made by the governor, lieutenant-governor or chief commissioner relating thereto, the Bill, if reaffirmed with or without amendment, may be again presented to the governor, lieutenant-governor or chief commissioner.

(c) Any Bill reserved for the consideration of the Governor-General shall, if assented to by the Governor-General within a period of six months from the date of such reservation, become law, on due publication of such assent, in the same way as a Bill assented to by the governor, lieutenant-governor or chief commissioner, but, if not assented to by the Governor-General within such period of six months, shall lapse and be of no effect, unless before the expiration of that period either—

(i) the Bill has been returned by the governor, lieutenant-governor or chief commissioner for further consideration by the council; or

(ii) in the case of the council not being in session, a notification has been published of an intention so to return the Bill at the commencement of the next session.

(3) The Governor-General may (except where the Bill has been reserved for his consideration), instead of assenting to or withholding his assent from any Act passed by a

## (Part VI.—Indian Legislation.)

local legislature, declare that he reserves the Act for the signification of His Majesty's pleasure thereon, and in such case the Act shall not have validity until His Majesty in Council has signified his assent and his assent has been notified by the Governor-General.]

Power of  
Crown to  
disallow Acts  
of local  
legislatures.

82. (1) When <sup>1</sup>[an Act] has been assented to by the Governor-General, he shall send to the Secretary of State an authentic copy thereof, and it shall be lawful for His Majesty <sup>2</sup>[in Council] to signify <sup>3</sup>[\* \*] his disallowance of <sup>1</sup>[the Act].

(2) Where the disallowance of <sup>1</sup>[an Act] has been so signified, the governor, lieutenant-governor or chief commissioner shall forthwith notify the disallowance, and thereupon the Act, as from the date of the notification, shall become void accordingly.

83. [*Rules for conduct of legislative business.*]—  
Omitted by Part II of Schedule II of 9 & 10 Geo. 5, Ch. 101.

## Validity of Indian Laws.

Removal of  
doubts as to  
validity of  
certain Indian  
laws.

84. (1) A law made by any authority in British India shall not be deemed invalid solely on account of any one or more of the following reasons:—

- (a) in the case of <sup>1</sup>[an Act of the Indian legislature] <sup>5</sup>[or a local legislature], because it affects the prerogative of the Crown; or
- (b) in the case of any law, because the requisite proportion of <sup>6</sup>[non-official members] was not complete at the date of its introduction into the council or its enactment; or
- (c) in the case of <sup>7</sup>[an Act of] a local legislature, because it confers on magistrates, being justices of the peace, the same jurisdiction over European British subjects as that legislature, by Acts duly made, could lawfully confer on magistrates in the exercise of authority over other British subjects in the like cases.

<sup>1</sup> These words were substituted for the words "any such Act" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were inserted by *ibid.*

<sup>3</sup> The words "through the Secretary of State in Council" were omitted by *ibid.*

<sup>4</sup> These words were substituted for the words "a law made by the Governor-General in Legislative Council" by *ibid.*

<sup>5</sup> These words were inserted by section 2 (2) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>6</sup> These words were substituted for the words "members not holding office under the Crown in India" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>7</sup> These words were substituted for the words "a law made by" by *ibid.*

*(Part VIA.—Statutory Commission.)*

<sup>1</sup>[A law made by any authority in British India and repugnant to any provision of this or any other Act of Parliament shall, to the extent of that repugnancy but not otherwise, be void.]

<sup>2</sup>[(2) Nothing in the Government of India Act, 1919, or this Act, or in any rule made thereunder, shall be construed as diminishing in any respect the powers of the Indian legislature as laid down in section sixty-five of this Act, and the validity of any Act of the Indian legislature or any local legislature shall not be open to question in any legal proceedings on the ground that the Act affects a provincial subject, or a central subject, as the case may be, and the validity of any Act made by the governor of a province shall not be so open to question on the ground that it does not relate to a reserved subject.]

**PART VIA.—Statutory Commission.**

<sup>3</sup>[**84A.** (1) At the expiration of ten years after the passing of the Government of India Act, 1919, the Secretary of State with the concurrence of both Houses of Parliament shall submit, for the approval of His Majesty, the names of persons to act as a commission for the purposes of this section. **Statutory Commission.**

(2) The persons whose names are so submitted, if approved by His Majesty, shall be a commission for the purpose of inquiring into the working of the system of government, the growth of education, and the development of representative institutions, in British India, and matters connected therewith, and the commission shall report as to whether and to what extent it is desirable to establish the principle of responsible government, or to extend, modify or restrict the degree of responsible government, then existing therein, including the question whether the establishment of second chambers of the local legislatures is or is not desirable.

(3) The commission shall also inquire into and report on any other matter affecting British India and the provinces, which may be referred to the commission by His Majesty.]

<sup>1</sup> These words were inserted by section 2 (2) of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>2</sup> This sub-section was inserted by Part I of Sch. II of Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>3</sup> Section 84A was inserted by *ibid.*

## PART VII.—Salaries, Leave of Absence, Vacation of Office, Appointments, etc.

Salaries and allowances of Governor-General and certain other officials in India.

85. (1) There shall be paid to the Governor-General of India, and to the other persons mentioned in the Second Schedule to this Act, out of the revenues of India, such salaries, not exceeding in any case the maximum specified in that behalf in that Schedule, and such allowances (if any) for equipment and voyage as the Secretary of State in Council may by order fix in that behalf, and, subject to or in default of any such order, as are payable at the commencement of this Act:

(2) Provided as follows:—

- (a) an order affecting salaries of members of the Governor-General's executive council may not be made without the concurrence of a majority of votes at a meeting of the Council of India;
- (b) if any person to whom this section applies holds or enjoys any pension or salary, or any office of profit, under the Crown or under any public office, his salary under this section shall be reduced by the amount of the pension, salary or profits of office so held or enjoyed by him;
- (c) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of India.

(3) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein:

<sup>1</sup>[Provided that nothing in this sub-section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons by the Secretary of State in Council.]

Leave of absence to members of executive council.

\* 86. (1) The Governor-General in Council may grant to any of the <sup>2</sup>[\*] members of his executive council <sup>3</sup>[(other than the Commander-in-Chief)], and a governor in council <sup>4</sup>[and a lieutenant-governor in council] may grant to any member of his executive council, leave of absence under medical certificate for a period not exceeding six months.

<sup>1</sup> This proviso was inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The word "ordinary" was omitted by Part II of *ibid.*

<sup>3</sup> These words were inserted by *ibid.*

<sup>4</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 87).

(Part VII.—Salaries, Leave of Absence, Vacation of Office, Appointments, etc.)

(2) Where a member of council obtains leave of absence in pursuance of this section, he shall retain his office during his absence, and shall on his return and resumption of his duties be entitled to receive half his salary for the period of his absence; but if his absence exceeds six months his office shall become vacant.

87. (1) If the Governor-General, or a governor, or the Commander-in-Chief of His Majesty's forces in India, and <sup>1</sup>[save in the case of absence on special duty or on leave under a medical certificate] if any <sup>2</sup>[\*] member of the executive council of the Governor-General <sup>3</sup>[(other than the Commander-in-Chief)] or any member of the executive council of a governor <sup>4</sup>[or of a lieutenant-Governor] departs from India, intending to return to Europe, his office shall thereupon become vacant.

Provisions as to absence from India.

<sup>5</sup>(2)—(5) \* \* \* \* \*

88. [Conditional appointments.]—Omitted by Part III of Sch. II of 9 & 10 Geo. 5, Ch. 101.

89. (1) If any person <sup>6</sup>[\*\*\*] appointed <sup>7</sup>[\*] to <sup>8</sup>[the office of Governor-General], is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of Governor-General before he takes his seat in council, he may make known by notification his appointment and his intention to assume the office of Governor-General.

Power for Governor-General to exercise powers before taking seat.

(2) After the notification, and thenceforth until he repairs to the place where the council may assemble, he may exercise alone all or any of the powers which might be exercised by the Governor-General in Council.

(3) All acts done in the council after the date of the notification, but before the communication thereof to the council, shall be valid, subject, nevertheless, to revocation or alteration by the person who has so assumed the office of Governor-General.

(4) When the office of Governor-General is assumed under the foregoing provision, the vice-president, or, if he

<sup>1</sup> These words were substituted for the words "subject to the foregoing provisions of this Act as to leave of absence" by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The word "ordinary" was omitted by Part II of *ibid.*

<sup>3</sup> These words were inserted by *ibid.*

<sup>4</sup> These words were inserted by Part III of *ibid.*

<sup>5</sup> Sub-sections (2), (3), (4) & (5) were repealed by Sch. II of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>6</sup> The words "entitled under a conditional appointment to succeed to the office of Governor-General or" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>7</sup> The word "absolutely" was omitted by *ibid.*

<sup>8</sup> These words were substituted for the words "that office" by *ibid.*

*(Part VII.—Salaries, Leave of Absence, Vacation of Office, Appointments, etc.)*

is absent, the senior <sup>1</sup>[member of the Council (other than the Commander-in-Chief)] then present, shall preside therein, with the same powers as the Governor-General would have had if present.

Temporary  
vacancy in  
office of  
Governor-  
General.

90. (1) If a vacancy occurs in the office of Governor-General when there is no <sup>1</sup>["\*"] successor in India to supply the vacancy, the governor <sup>2</sup>[of a presidency] who was first appointed to the office of governor <sup>3</sup>[of a presidency] by His Majesty shall hold and execute the office of Governor-General until a successor arrives or until some person in India is duly appointed thereto.

(2) Every such acting Governor-General, while acting as such, shall have and may exercise all the rights and powers of the office of Governor-General, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing the salary and allowances appertaining to his office of governor; and his office of governor shall be supplied, for the time during which he acts as Governor-General, in the manner directed by this Act with respect to vacancies in the office of governor.

(3) If, on the vacancy occurring, it appears to the governor, who by virtue of this section holds and executes the office of Governor-General, necessary to exercise the powers thereof before he takes his seat in council, he may make known by notification his appointment, and his intention to assume the office of Governor-General, and thereupon the provision of <sup>4</sup>[section eighty-nine of this Act] <sup>5</sup>["\*"] shall apply.

(4) Until such a governor has assumed the office of Governor-General, if no <sup>1</sup>["\*"] successor is on the spot to supply such vacancy, the vice-president, or, if he is absent, the senior <sup>2</sup>["\*"] member of the executive council <sup>3</sup>[other than the Commander-in-Chief] shall hold and execute the office of Governor-General until the vacancy is filled in accordance with the provisions of this Act.

(5) Every vice-president or other member of council so acting as Governor-General, while so acting, shall have

<sup>1</sup> These words were substituted for the words "ordinary member of the council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The words "conditional or other" were omitted by Part III of *ibid*.

<sup>3</sup> These words were inserted by Part II of *ibid*.

<sup>4</sup> These words were substituted for the words "this Act" by Part III of *ibid*.

<sup>5</sup> The words "respecting the assumption of the office by a person conditionally appointed to succeed thereto" were omitted by *ibid*.

<sup>6</sup> The word "ordinary" was omitted by Part II of *ibid*.

*(Part VII.—Salaries, Leave of Absence, Vacation of Office, Appointments, etc.)*

and may exercise all the rights and powers of the office of Governor-General and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing his salary and allowances as member of council for that period.

**91.** (1) If a vacancy occurs in the office of governor when no <sup>1</sup>[\*\*\*] successor is on the spot to supply the vacancy, the vice-president, or, if he is absent, the senior member of the governor's executive council, or, if there is no council, the chief secretary to the local government, shall hold and execute the office of governor until a successor arrives, or until some other person on the spot is duly appointed thereto.

**Temporary vacancy in office of governor.**

(2) Every such acting governor shall, while acting as such, be entitled to receive the emoluments and advantages appertaining to the office of governor, foregoing the salary and allowances appertaining to his office of member of council or secretary.

**92.** (1) If a vacancy occurs in the office of <sup>2</sup>[a member] of the executive council of the Governor-General <sup>3</sup>[other than the Commander-in-Chief], or a member of the executive council of a governor, and there is no <sup>1</sup>[\*\*\*] successor present on the spot, the Governor-General in Council, or governor in council, as the case may be, shall supply the vacancy by appointing a temporary member of council.

**Temporary vacancy in office of member of an executive council.**

(2) Until a successor arrives, the person so appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office, foregoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office.

(3) If <sup>2</sup>[a member] of the executive council of the Governor-General <sup>3</sup>[other than the Commander-in-Chief], or any member of the executive council of a governor is, by infirmity or otherwise, rendered incapable of acting or of attending to act as such, or is absent on leave <sup>4</sup>[or special duty] <sup>5</sup>[\*\*\*], the Governor-General in Council, or

<sup>1</sup> The words "conditional or other" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were substituted for the words "any ordinary member" by Part II of *ibid.*

<sup>3</sup> These words were inserted by *ibid.*

<sup>4</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>5</sup> Certain words were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).



*(Part VII.—Salaries, Leave of Absence, Vacation of Office, Appointments, etc.)*

governor in council, as the case may be, shall appoint some person to be a temporary member of council.

(4) Until the return to duty of the member so incapable or absent, the person <sup>1</sup>[\*] temporarily appointed shall hold and execute the office to which he has been appointed, and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive half the salary of the member of council whose place he fills, and also half the salary of any other office, which he may hold, if he hold any such office, the remaining half of such last-named salary being at the disposal of the Governor-General in Council, or governor in council, as the case may be.

(5) Provided as follows:—

- (a) no person may be appointed a temporary member of council who might not have been appointed <sup>2</sup>[\*\*\*] to fill the vacancy supplied by the temporary appointment; and
- (b) if the Secretary of State informs the Governor-General that it is not the intention of His Majesty to fill a vacancy in the Governor-General's executive council, no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the Governor-General, the tenure of the person temporarily appointed shall cease from that date.

**Vacancies in legislative councils.**

**93.** (1) A nominated or elected member of <sup>3</sup>[either chamber of the Indian legislature] or of a local legislative council may resign his office to the Governor-General or to the governor, lieutenant-governor or chief commissioner, as the case may be, and on the acceptance of the resignation the office shall become vacant.

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office, the Governor-General, governor, lieutenant-governor or chief commissioner, as the case may be, may, by notification published in the government gazette, declare that the seat in council of that member has become vacant.

<sup>1</sup> The words "conditionally or" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The words "under this Act" were omitted by Part II of *ibid.*

<sup>3</sup> These words were substituted for the words "the Indian Legislative Council" by *ibid.*

(Part VII.—Salaries, Leave of Absence, Vacation of Office, Appointments, etc.)

**94.** Subject to the provisions of this Act, the Secretary of State in Council may, with the concurrence of a majority of votes at a meeting of the Council of India, make rules as to the absence on leave <sup>1</sup>[or special duty] of persons in the service of the Crown in India, and the terms as to continuance, variation or cessation of pay, salary and allowances on which any such <sup>2</sup>[absence may be permitted]. **Leave.**

**95.** (1) The Secretary of State in Council, with the concurrence of a majority of votes at a meeting of the Council of India, may make rules for distributing between the several authorities in India the power of making appointments to and promotions in <sup>3</sup>[military] offices under the Crown in India and may reinstate <sup>3</sup>[military] officers and servants suspended or removed by any of those authorities. **Power to make rules as to Indian military appointments.**

(2) Subject to such rules, all appointments to <sup>3</sup>[military] offices and commands in India, and all <sup>3</sup>[military] promotions, which by law, or under any regulations, usage or custom, are, at the commencement of this Act, made by any authority in India, shall, subject to the qualifications, conditions, and restrictions then affecting such appointments and promotions, respectively, continue to be made in India by the like authority.

**96.** No native of British India, nor any subject of His Majesty resident therein, shall, by reason only of his religion, place of birth, descent, colour, or any of them be disabled from holding any office under the Crown in India. **No disabilities in respect of religion, colour or place of birth.**

**[96 A.** Notwithstanding anything in any other enactment, the Governor-General in Council, with the approval of the Secretary of State in Council, may, by notification, declare that, subject to any conditions or restrictions prescribed in the notification, any named ruler or subject of any state in India shall be eligible for appointment to any civil or military office under the Crown to which a native of British India may be appointed, or any named subject of any state or any named member of any independent race or tribe, in territory adjacent to India, shall be eligible for appointment to any such military office.] **Qualification of rulers and subjects of certain states for office.**

<sup>1</sup> These words were inserted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>2</sup> These words were substituted for the words "leave may be granted" by *ibid.*

<sup>3</sup> This word was inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>4</sup> Section 96A was inserted by section 3 of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

**PART VIIA.—The Civil Services in India.**

The civil  
services in  
India.

<sup>1</sup>[96B. (1) Subject to the provisions of this Act and of rules made thereunder, every person in the civil service of the Crown in India holds office during His Majesty's pleasure, and may be employed in any manner required by a proper authority within the scope of his duty, but no person in that service may be dismissed by any authority subordinate to that by which he was appointed, and the Secretary of State in Council may (except so far as he may provide by rules to the contrary) reinstate any person in that service who has been dismissed.

If any such person appointed by the Secretary of State in Council thinks himself wronged by an order of an official superior in a governor's province, and on due application made to that superior does not receive the redress to which he may consider himself entitled, he may, without prejudice to any right of redress, complain to the governor of the province in order to obtain justice, and the governor is hereby directed to examine such complaint and require such action to be taken thereon as may appear to him to be just and equitable.

(2) The Secretary of State in Council may make rules<sup>2</sup> for regulating the classification of the civil services in India, the methods of their recruitment, their conditions of services, pay and allowances, and discipline and conduct. Such rules may, to such extent and in respect of such matters as may be prescribed, delegate the power of making rules to the Governor-General in Council or to local governments, or authorise the Indian legislature or local legislatures to make laws regulating the public services :

Provided that every person appointed before the commencement of the Government of India Act, 1919, by the Secretary of State in Council to the civil service of the Crown in India shall retain all his existing or accruing rights, or shall receive such compensation for the loss of any of them as the Secretary of State in Council may consider just and equitable.

(3) The right to pensions and the scale and conditions of pensions of all persons in the civil service of the Crown in India appointed by the Secretary of State in Council shall be regulated in accordance with the rules in force at the time of the passing of the Government of India Act, 1919. Any such rules may be varied or added to by the

<sup>1</sup> Sections 96B, 96C, 96D and 96E were inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> For rules made under section 96B (2)—see the Fundamental Rules published in the Supplement to the Gazette of India, dated the 19th November, 1921, pp. 2067 *et seq.*

*(Part VIIA.—The Civil Services in India.)*

Secretary of State in Council and shall have effect as so varied or added to, but any such variation or addition shall not adversely affect the pension of any member of the service appointed before the date thereof.

Nothing in this section or in any rule thereunder shall prejudice the rights to which any person may, or may have, become entitled under the provisions in relation to pensions contained in the East India Annuity Funds Act, 1874.

(4) For the removal of doubts, it is hereby declared that all rules or other provisions in operation at the time of the passing of the Government of India Act, 1919, whether made by the Secretary of State in Council or by any other authority, relating to the civil service of the Crown in India, were duly made in accordance with the powers in that behalf, and are confirmed, but any such rules or provisions may be revoked, varied or added to by rules or laws made under this section.]

<sup>1</sup>[**96C.** (1) There shall be established in India a public service commission, consisting of not more than five members, of whom one shall be chairman, appointed by the Secretary of State in Council. Each member shall hold office for five years, and may be re-appointed. No member shall be removed before the expiry of his term of office, except by order of the Secretary of State in Council. The qualifications for appointment, and the pay and pension (if any) attaching to the office of chairman and member, shall be prescribed by rules made by the Secretary of State in Council.

**Public service  
commission.**

(2) The public service commission shall discharge, in regard to recruitment and control of the public services in India, such functions as may be assigned thereto by rules made by the Secretary of State in Council.]

<sup>1</sup>[**96D.** (1) An auditor-general in India shall be appointed by the Secretary of State in Council, and shall hold office during His Majesty's pleasure. The Secretary of State in Council shall, by rules, make provision for his pay, powers, duties, and conditions of employment, or for the discharge of his duties in the case of a temporary vacancy or absence from duty.

**Financial control.**

(2) Subject to any rules made by the Secretary of State in Council, no office may be added to or withdrawn from the

<sup>1</sup> See footnote<sup>1</sup> on page 74, ante.

(Part VIIA.—*The Civil Services in India. Part VIII.—  
The Indian Civil Service.*)

public service, and the emoluments of no post may be varied, except after consultation with such finance authority as may be designated in the rules, being an authority of the province or of the Government of India, according as the post is or is not under the control of a local government.]

Rules under  
Part VIIA.

<sup>1</sup>[96E. Rules made under this Part of this Act shall not be made except with the concurrence of the majority of votes at a meeting of the Council of India.]

**PART VIII.—The Indian Civil Service.**

Rules for  
admission to the  
Indian Civil  
Service.

97. (1) The Secretary of State in Council may, with the advice and assistance of the Civil Service Commissioners, make rules for the examination, under the superintendence of those Commissioners, of British subjects <sup>2</sup>[and of persons in respect of whom a declaration has been made under <sup>3</sup>section 96A of this Act] who are desirous of becoming candidates for appointments to the Indian Civil Service.

(2) The rules shall prescribe the age and qualifications of the candidates, and the subjects of examination.

<sup>4</sup>[(2a) The admission to the Indian Civil Service of a British subject who or whose father or mother was not born within His Majesty's dominions shall be subject to such restrictions as the Secretary of State in Council, with the advice and assistance of the Civil Service Commissioners, may think fit to prescribe, and all such restrictions shall be included in the rules.]

(3) All rules made in pursuance of this section shall be laid before Parliament within fourteen days after the making thereof, or, if Parliament is not then sitting, then within fourteen days after the next meeting of Parliament.

(4) The candidates certified to be entitled under the rules shall be recommended for appointment according to the order of their proficiency as shown by their examination.

(5) Such persons only as are so certified may be appointed or admitted to the Indian Civil Service by the Secretary of State in Council.

<sup>1</sup> See footnote <sup>1</sup> on page 74, *ante*.

<sup>2</sup> These words were inserted by section 4 of the Government of India (Amendment) Act, 1916 (8 & 7 Geo. 5, Ch. 37).

<sup>3</sup> These words were substituted for "the last foregoing section" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>4</sup> This sub-section was inserted by section 4 of the Government of India (Amendment) Act, 1916 (8 & 7 Geo. 5, Ch. 37).

*(Part VIII.—The Indian Civil Service.)*

<sup>1</sup>[(6) Notwithstanding anything in this section, the Secretary of State may make appointments to the Indian Civil Service of persons domiciled in India, in accordance with such rules as may be prescribed by the Secretary of State in Council with the concurrence of the majority of votes at a meeting of the Council of India.

Any rules made under this sub-section shall not have force until they have been laid for thirty days before both Houses of Parliament.]

**98.** Subject to the provisions of this Act, all vacancies happening in any of the offices specified or referred to in the Third Schedule to this Act, and all such offices which may be created hereafter, shall be filled from amongst the members of the Indian Civil Service.

**Offices reserved to the Indian Civil Service.**

**99.** (1) The authorities in India, by whom appointments are made to offices in the Indian Civil Service, may appoint to any such office any person of proved merit and ability domiciled in British India and born <sup>2</sup>[\*\*\*] of parents habitually resident in India, and not established there for temporary purposes only, although the person so appointed has not been admitted to that service in accordance with the foregoing provisions of this Act.

**Power to appoint certain persons to reserved offices.**

(2) Every such appointment shall be made subject to such rules as may be prescribed by the Governor-General in Council and sanctioned by the Secretary of State in Council with the concurrence of a majority of votes at a meeting of the Council of India.

(3) The Governor-General in Council may, by resolution, define and limit the qualification of persons who may be appointed under this section, but every resolution made for that purpose shall be subject to the sanction of the Secretary of State in Council, and shall not have force until it has been laid for thirty days before both Houses of Parliament.

**100.** (1) Where it appears to the authority in India by whom an appointment is to be made to any office reserved to members of the Indian Civil Service, that a person not being a member of that service ought, under the special circumstances of the case, to be appointed thereto, the authority may appoint thereto any person who has resided for at least seven years in India and who has,

**Power to make provisional appointments in certain cases.**

<sup>1</sup> This sub-section was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> The words "in British India" were repealed by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

*(Part IX. The Indian High Courts.)*

before his appointment, fulfilled all the tests (if any) which would be imposed in the like case on a member of that service.

(2) Every such appointment shall be provisional only, and shall forthwith be reported to the Secretary of State, with the special reasons for making it; and, unless the Secretary of State in Council approves the appointment, with the concurrence of a majority of votes at a meeting of the Council of India, and within twelve months from the date of the appointment intimates such approval to the authority by whom the appointment was made, the appointment shall be cancelled.

**PART IX.—The Indian High Courts.****Constitution.****Constitution of  
high courts.**

**101.** (1) The high courts referred to in this Act are the high courts of judicature for the time being established in British India by letters patent.

(2) Each high court shall consist of a chief justice and as many other judges as His Majesty may think fit to appoint:

Provided as follows:—

- (i) the Governor-General in Council may appoint persons to act as additional judges of any high court for such period, not exceeding two years, as may be required; and the judges so appointed shall, whilst so acting, have all the powers of a judge of the high court appointed by His Majesty under this Act;
- (ii) the maximum number of judges of a high court, including the chief justice and additional judges, shall be twenty..
- (3) A judge of a high court must be—
  - (a) a barrister of England or Ireland, or a member of the Faculty of Advocates in Scotland, of not less than five years' standing; or
  - (b) a member of the Indian Civil Service of not less than ten years' standing, and having for at least three years served as, or exercised the powers of, a district judge; or
  - (c) a person having held judicial office, not inferior to that of a subordinate judge or a judge of a small cause court, for a period of not less than five years; or

*(Part IX.—The Indian High Courts.)*

<sup>1</sup>[(d) a person who has been a pleader of one of the high courts referred to in this Act, or of any court which is a high court within the meaning of clause (24) of section three of the Act of the Indian Legislature known as the General Clauses Act, 1897, for an aggregate period of not less than ten years.]

of 1897.

(4) Provided that not less than one-third of the judges of a high court, including the chief justice, but excluding additional judges, must be such barristers or advocates as aforesaid, and that not less than one-third must be members of the Indian Civil Service.

(5) The high court for the North-Western Provinces may be styled the high court of judicature at Allahabad, and the high court at Fort William in Bengal is in this Act referred to as the high court at Calcutta.

**102.** (1) Every Judge of a high court shall hold his office during His Majesty's pleasure.

**Tenure of office of judges of high courts.**

(2) Any such judge may resign his office, in the case of the high court at Calcutta, to the Governor-General in Council, and in other cases to the local government.

**103.** (1) The chief justice of a high court shall have rank and precedence before the other judges of the same court.

**Precedence of judges of high courts.**

(2) All the other judges of a high court shall have rank and precedence according to the seniority of their appointments, unless otherwise provided in their patents.

**104.** (1) The Secretary of State in Council may fix the salaries, allowances, furloughs, retiring pensions and (where necessary) expenses for equipment and voyage of the chief justices and other judges of the several high courts, and may alter them, but any such alteration shall not affect the salary of any judge appointed before the date thereof.

**Salaries, etc., of judges of high courts.**

(2) The remuneration fixed for a judge under this section shall commence on his taking upon himself the execution of his office, and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein.

(3) If a judge of a high court dies during his voyage to India, or within six months after his arrival there, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum

<sup>1</sup> This clause was substituted by section 1 of the Indian High Courts Act, 1922 (12 & 13 Geo. 5, Ch. 20).



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of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(4) If a judge of a high court dies while in possession of his office and after the expiration of six months from his arrival in India for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

**Provision for  
vacancy in the  
office of chief  
justice or other  
judges.**

**105.** (1) On the occurrence of a vacancy in the office of chief justice of a high court, and during any absence of such a chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local government in other cases, shall appoint one of the other judges of the same high court to perform the duties of chief justice of the court, until some person has been appointed by His Majesty to the office of chief justice of the court, and has entered on the discharge of the duties of that office, or until the chief justice has returned from his absence, as the case requires.

(2) On the occurrence of a vacancy in the office of any other judge of a high court, and during any absence of any such judge, or on the appointment of any such judge to act as chief justice, the Governor-General in Council in the case of the high court at Calcutta, and the local government in other cases, may appoint a person, with such qualifications as are required in persons to be appointed to the high court, to act as a judge of the court; and the person so appointed may sit and perform the duties of a judge of the court, until some person has been appointed by His Majesty to the office of judge of the court, and has entered on the discharge of the duties of the office, or until the absent judge has returned from his absence, or until the Governor-General in Council or the local government, as the case may be, sees cause to cancel the appointment of the acting judge.

**Jurisdiction.**

**Jurisdiction of  
high courts.**

**106.** (1) The several high courts are courts of record and have such jurisdiction, original and appellate, including admiralty jurisdiction in respect of offences committed on the high seas, and all such powers and authority over or in relation to the administration of justice, including

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power to appoint clerks and other ministerial officers of the court, and power to make rules for regulating the practice of the court, as are vested in them by letters patent, and, subject to the provisions of any such letters patent, all such jurisdictions, powers and authority as are vested in those courts respectively at the commencement of this Act.

<sup>1</sup>[(1a) The letters patent establishing or vesting jurisdiction, powers or authority in a high court may be amended from time to time by His Majesty by further letters patent.]

(2) The high courts have not and may not exercise any original jurisdiction in any matter concerning the revenue, or concerning any act ordered or done in the collection thereof, according to the usage and practice of the country or the law for the time being in force.

**107.** Each of the high courts has superintendence over all courts for the time being, subject to its appellate jurisdiction, and may do any of the following things, that is to say:—

**Powers of high court with respect to subordinate courts.**

- (a) call for returns;
- (b) direct the transfer of any suit or appeal from any such court to any other court of equal or superior jurisdiction;
- (c) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts;
- (d) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts; and
- (e) settle tables of fees to be allowed to the sheriff, attorneys and all clerks and officers of courts:

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any <sup>2</sup>[law] for the time being in force, and shall require the previous approval, in the case of the high court at Calcutta, of the Governor-General in Council, and in other cases of the local government.

**108.** (1) Each high court may by its own rules provide as it thinks fit for the exercise, by one or more judges, or by division courts constituted by two or more

**Exercise of jurisdiction by single Judges or division courts.**

<sup>1</sup> This sub section was inserted by Sch. I of the Government of India (Amendment) Act, 1916 (16 & 7 Geo. 5, Ch. 37).

<sup>2</sup> This word was substituted for the word "Act" by *ibid.*

*(Part IX.—The Indian High Courts.)*

judges, of the high court, of the original and appellate jurisdiction vested in the court.

(2) The chief justice of each high court shall determine what judge in each case is to sit alone, and what judges of the court, whether with or without the chief justice, are to constitute the several division courts.

**Power for Governor-General in Council to alter local limits of jurisdiction of high courts.**

**109.** (1) The Governor-General in Council may, by order, transfer any territory or place from the jurisdiction of one to the jurisdiction of any other of the high courts, and authorise any high court to exercise all or any portion of its jurisdiction in any part of British India not included within the limits for which the high court was established, and also to exercise any such jurisdiction in respect of <sup>1</sup>[any British subject for the time being within] any part of India outside British India.

(2) The Governor-General in Council shall transmit to the Secretary of State an authentic copy of every order made under this section.

(3) His Majesty may signify, through the Secretary of State in Council, his disallowance of any such order, and such disallowance shall make void and annul the order as from the day on which the Governor-General notifies that he has received intimation of the disallowance, but no act done by any high court before such notification shall be deemed invalid by reason only of such disallowance.

**Exemption from jurisdiction of high courts.**

**110.** (1) The Governor-General, each governor <sup>2</sup>[lieutenant-governor and chief commissioner] and each of the members of <sup>3</sup>[the executive council of the Governor-General or of a governor or lieutenant-governor] <sup>4</sup>[and a minister appointed under this Act] shall not—

- (a) be subject to the original jurisdiction of any high court by reason of anything counselled, ordered or done by any of them in his public capacity only; nor
- (b) be liable to be arrested or imprisoned in any suit or proceeding in any high court acting in the exercise of its original jurisdiction; nor
- (c) be subject to the original criminal jurisdiction of any high court in respect of any offence not being treason or felony.

<sup>1</sup> These words were substituted for the words "Christian subjects of His Majesty's resident in" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>2</sup> These words were inserted by *ibid.*

<sup>3</sup> These words were substituted for the words "their respective executive councils" by *ibid.*

<sup>4</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part IX.—The Indian High Courts.)*

(2) The exemption under this section from liability to arrest and imprisonment shall extend also to the chief justices and other judges of the several high courts.

**111.** The order in writing of the Governor-General in Council for any act shall, in any proceeding, civil or criminal, in any high court acting in the exercise of its original jurisdiction, be a full justification of the act, except so far as the order extends to any European British subject; but nothing in this section shall exempt the Governor-General, or any member of his executive council, or any person acting under their orders, from any proceedings in respect of any such act before any competent court in England.

**Written order by Governor-General justification for act in any court in India.**

**Law to be administered.**

**112.** The high courts at Calcutta, Madras and Bombay, in the exercise of their original jurisdiction in suits against inhabitants of Calcutta, Madras or Bombay, as the case may be, shall, in matters of inheritance and succession to lands, rents and goods, and in matters of contract and dealing between party and party, when both parties are subject to the same personal law or custom having the force of law, decide according to that personal law or custom, and when the parties are subject to different personal laws or customs having the force of law, decide according to the law or custom to which the defendant is subject.

**Law to be administered in cases of inheritance and succession.**

**Additional High Courts.**

**113.** His Majesty may, if he sees fit, by letters patent, establish a high court of judicature in any territory in British India, whether or not included within the limits of the local jurisdiction of another high court, and confer on any high court so established any such jurisdiction, powers and authority as are vested in or may be conferred on any high court existing at the commencement of this Act; and, where a high court is so established in any area included within the limits of the local jurisdiction of another high court, His Majesty may, by letters patent, alter those limits, and make such incidental, consequential and supplemental provisions as may appear to be necessary by reason of the alteration.

**Power to establish additional high courts.**

*(Part IX.—The Indian High Courts.  
Part X.—Ecclesiastical Establishment.)*

**Advocate-General.**

**Appointment  
and powers  
of advocate-  
general.**

**114.** (1) His Majesty may, by warrant under His Royal Sign Manual, appoint an advocate-general for each of the presidencies of Bengal, Madras and Bombay.

(2) The advocate-general for each of those presidencies may take on behalf of His Majesty such proceedings as may be taken by His Majesty's Attorney-General in England.

<sup>1</sup>[(3) On the occurrence of a vacancy in the office of advocate-general or during any absence or deputation of an advocate-general the Governor-General in Council in the case of Bengal, and the local government in other cases, may appoint a person to act as advocate-general; and the person so appointed may exercise powers of an advocate-general until some person has been appointed by His Majesty to the office and has entered on the discharge of his duties, or until the advocate-general has returned from his absence or deputation, as the case may be, or until the Governor-General in Council or the local government, as the case may be, cancels the acting appointment.]

**PART X.—Ecclesiastical Establishment.**

**Jurisdiction  
of Indian  
bishops.**

**115.** (1) The bishops of Calcutta, Madras and Bombay have and may exercise within their respective dioceses such episcopal functions and such ecclesiastical jurisdiction for the superintendence and good government of the ministers of the Church of England therein as His Majesty may, by letters patent, direct. <sup>2</sup>[His Majesty may also, by letters patent, make such provision as may be deemed expedient for the exercise of the episcopal functions and ecclesiastical jurisdiction of the bishop during a vacancy of any of the said sees or the absence of the bishop thereof.]

(2) The Bishop of Calcutta is the Metropolitan Bishop in India, subject, nevertheless, to the general superintendence and revision of the Archbishop of Canterbury <sup>3</sup>[and as metropolitan shall have, enjoy, and exercise such ecclesiastical jurisdiction and functions as His Majesty may, by letters patent, direct. His Majesty may also, by

<sup>1</sup> This sub-section was added by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>2</sup> These words were inserted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Part X.—Ecclesiastical Establishment.)*

letters patent, make such provision as may be deemed expedient for the exercise of such jurisdiction and functions during a vacancy of the See of Calcutta or the absence of the bishop.]

(3) Each of the bishops of Madras and Bombay is subject to the Bishop of Calcutta as such Metropolitan, and must, at the time of his appointment to his bishopric, or at the time of his consecration as bishop, take an oath of obedience to the Bishop of Calcutta, in such manner as His Majesty, by letters patent, may be pleased to direct.

(4) His Majesty may, by letters patent, vary the limits of the dioceses of Calcutta, Madras and Bombay.

(5) Nothing in this Act or in any such letters patent as aforesaid shall prevent any person who is or has been bishop of any diocese in India from performing episcopal functions, not extending to the exercise of jurisdiction, in any diocese or reputed diocese at the request of the bishop thereof.

**116.** [*Power to admit to holy orders.*] Rep. by Sch. II of 6 & 7 Geo. 5, Ch. 37.

**117.** If any person under the degree of bishop is appointed to the bishopric of Calcutta, Madras or Bombay, being at the time of his appointment resident in India, the Archbishop of Canterbury, if so required to do by His Majesty by letters patent, may issue a commission under his hand and seal, directed to the two remaining bishops, authorising and charging them to perform all requisite ceremonies for the consecration of the person so to be appointed.

**Consecration of person resident in India appointed to bishopric.**

**118.** (1) The bishops <sup>1</sup>[\*\*] of Calcutta, Madras and Bombay are appointed by His Majesty, by letters patent, <sup>2</sup>[and the archdeacons of those dioceses by their respective diocesan bishops], and there may be paid to them, or to any of them, out of the revenues of India, such salaries and allowances as may be fixed by the Secretary of State in Council; but any power of alteration under this enactment shall not be exercised so as to impose any additional charge on the revenues of India.

**Salaries and allowances of bishops and archdeacons.**

(2) The remuneration fixed for a bishop or archdeacon under this section shall commence on his taking upon himself the execution of his office, and be the whole profit

<sup>1</sup> The words "and archdeacons" were omitted by Part III of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> These words were inserted by *ibid.*

*(Part X.—Ecclesiastical Establishment.)*

or advantage which he shall enjoy from his office during his continuance therein, and continue so long as he exercises the functions of his office.

(3) There shall be paid, out of the revenues of India, the expenses of visitations of the said bishops, but no greater sum may be issued on account of those expenses than is allowed by the Secretary of State in Council.

**Payments to  
representatives  
of bishops.**

**119.** (1) If the Bishop of Calcutta dies during his voyage to India, for the purpose of taking upon himself the execution of his office, or if the Bishop of Calcutta, Madras or Bombay dies within six months after his arrival there for that purpose, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, such a sum of money as will, with the amount received by or due to him at the time of his death on account of salary, make up the amount of one year's salary.

(2) If the Bishop of Calcutta, Madras or Bombay dies while in possession of his office and after the expiration of six months from his arrival in India, for the purpose of taking upon himself the execution of his office, the Secretary of State shall pay to his legal personal representatives, out of the revenues of India, over and above the sum due to him at the time of his death, a sum equal to six months' salary.

**Pensions to  
bishops.**

**120.** His Majesty may, by warrant under the Royal Sign Manual, countersigned by the <sup>1</sup>[Secretary of State], grant, out of the revenues of India, to any Bishop of Calcutta a pension not exceeding fifteen hundred pounds per annum if he has resided in India as Bishop of Calcutta, Madras or Bombay or archdeacon for ten years, or one thousand pounds per annum if he has resided in India as Bishop of Calcutta, <sup>2</sup>[Madras or Bombay] for seven years, or seven hundred and fifty pounds per annum if he has resided in India as Bishop of Calcutta, <sup>2</sup>[Madras or Bombay] for five years, or to any Bishop of Madras or Bombay a pension not exceeding eight hundred pounds per annum <sup>3</sup>[\*\*\*] if he has resided in <sup>4</sup>[\*] India as such bishop for fifteen years.

<sup>1</sup> These words were substituted for the words "Chancellor of the Exchequer" by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>2</sup> These words were inserted by *ibid.*

<sup>3</sup> The words "to be paid quarterly" were repealed by *ibid.*

<sup>4</sup> The word "British" was repealed by *ibid.*

(Part X.—*Ecclesiastical Establishment.* Part XI.—*Offences, Procedure and Penalties.*)

**121.** His Majesty may make such rules as to the leave of absence of the Bishops of Calcutta, Madras and Bombay on furlough or medical certificate as seem to His Majesty expedient. **Furlough rules.**

**122.** (1) Two members of the establishment of Chaplains maintained in each of the presidencies of Bengal, Madras and Bombay must always be ministers of the church of Scotland, and shall be entitled to have, out of the revenues of India, such salary as is from time to time allotted to the military chaplains in the several presidencies. **Establishment of chaplains of Church of Scotland.**

(2) The ministers so appointed chaplains must be ordained and inducted by the presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the presbytery of Edinburgh, whose judgments shall be subject to dissent, protest and appeal to the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland.

**123.** Nothing in this Act shall prevent the Governor-General in Council from granting, with the sanction of the Secretary of State in Council, to any sect, persuasion or community of Christians, not being of the Church of England or Church of Scotland, such sums of money as may be expedient for the purpose of instruction or for the maintenance of places of worship. **Saving as to grants to Christians.**

## **PART XI.—Offences, Procedure and Penalties.**

**124.** If any person holding office under the Crown in India does any of the following things, that is to say— **Certain acts to be misdemeanours.**

- (1) if he oppresses any British subject within his jurisdiction or in the exercise of his authority; or **Oppression.**
- (2) if (except in case of necessity, the burden of proving which shall be on him) he wilfully disobeys, or wilfully omits, forbears or neglects to execute, any orders or instructions of the Secretary of State; or **Wilful disobedience.**

- (3) if he is guilty of any wilful breach of the trust and duty of his office; or **Breach of duty.**



*(Part XI.—Offences, Procedure and Penalties.)***Trading.**

- (4) if, being the Governor-General, or a governor, lieutenant-governor or chief commissioner or a member of the Executive Council of the Governor-General or of a governor or lieutenant governor <sup>1</sup>[or being a minister appointed under this Act], or being a person employed or concerned in the collection of revenue or the administration of justice, he is concerned in, or has any dealings or transactions by way of trade or business in any part of India, for the benefit either of himself or of any other person, otherwise than as a shareholder in any joint-stock company or trading corporation; or

**Receiving presents.**

- (5) if he demands, accepts or receives, by himself or another, in the discharge of his office, any gift, gratuity or reward, pecuniary or otherwise, or any promise of the same, except in accordance with such rules as may be made by the Secretary of State as to the receipt of presents, and except in the case of fees paid or payable to barristers, physicians, surgeons and chaplains in the way of their respective professions,

he shall be guilty of a misdemeanour; and if he is convicted of having demanded, accepted or received any such gift, gratuity or reward, the same, or the full value thereof, shall be forfeited to the Crown, and the court may order that the gift, gratuity or reward, or any part thereof, be restored to the person who gave it, or be given to the prosecutor or informer, and that the whole or any part of any fine imposed on the offender be paid or given to the prosecutor or informer, as the court may direct:

<sup>2</sup>[Provided that, notwithstanding anything in this Act, if any member of the Governor-General's Executive Council or any member of any local government was at the time of his appointment concerned or engaged in any trade or business, he may, during the term of his office, with the sanction in writing of the Governor-General, or, in the case of ministers, of the governor of the province, and in any case subject to such general conditions and restrictions as the Governor-General in Council may prescribe, retain his concern or interest in that trade or business, but

<sup>1</sup> These words were inserted by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch 101).

<sup>2</sup> This proviso was inserted by Part I of *ibid.*

*(Part XI.—Offences, Procedure and Penalties.)*

shall not, during that term, take part in the direction or management of that trade or business.]

**125.** (1) If any European British subject, without the previous consent in writing of the Secretary of State in Council or of the Governor-General in Council, or of a local government, by himself or another,—

**Loans to princes or chiefs.**

- (a) lends any money or other valuable thing to any prince or chief in India, or
- (b) is concerned in lending money to, or raising or procuring money for, any such prince or chief, or becomes security for the repayment of any such money, or
- (c) lends any money or other valuable thing to any other person for the purpose of being lent to any such prince or chief, or
- (d) takes, holds, or is concerned in any bond, note or other security granted by any such prince or chief for the repayment of any loan or money hereinbefore referred to,

he shall be guilty of a misdemeanour.

(2) Every bond, note or security for money, of what kind or nature soever, taken, held or enjoyed, either directly or indirectly, for the use and benefit of any European British subject, contrary to the intent of this section, shall be void.

**126.** (1) If any person carries on, mediately or immediately, any illicit correspondence, dangerous to the peace or safety of any part of British India, with any prince, chief, land-holder or other person having authority in India, or with the commander, governor, or president of any foreign European settlement in India, or any correspondence, contrary to the rules and orders of the Secretary of State, or of the Governor-General in Council, or a governor in council, he shall be guilty of a misdemeanour; and the Governor-General or governor may issue a warrant for securing and detaining in custody any person suspected of carrying on any such correspondence.

**Carrying on dangerous correspondence.**

(2) If on examination taken on oath in writing of any credible witness before the Governor-General in Council or the governor in council, there appear reasonable grounds for the charge, the Governor-General or governor may commit the person suspected or accused to safe custody, and shall within a reasonable time, not exceeding

*(Part XI.—Offences, Procedure and Penalties.)*

five days, cause to be delivered to him a copy of the charge on which he is committed.

(3) The person charged may deliver his defence in writing, with a list of such witnesses as he may desire to be examined in support thereof.

(4) The witnesses in support of the charge and of the defence shall be examined and cross-examined on oath in the presence of the person charged, and their depositions and examination shall be taken down in writing.

(5) If, notwithstanding the defence, there appear to the Governor-General in Council or governor in council reasonable grounds for the charge and for continuing the confinement, the person charged shall remain in custody until he is brought to trial in India or sent to England for trial.

(6) All such examinations and proceedings, or attested copies thereof under the seal of the high court, shall be sent to the Secretary of State as soon as may be, in order to their being produced in evidence on the trial of the person charged in the event of his being sent for trial to England.

(7) If any such person is to be sent to England, the Governor-General or governor, as the case may be, shall cause him to be so sent at the first convenient opportunity, unless he is disabled by illness from undertaking the voyage, in which case he shall be so sent as soon as his state of health will safely admit thereof.

(8) The examinations and proceedings transmitted in pursuance of this section shall be received as evidence in all courts of law, subject to any just exceptions as to the competency of the witnesses.

**Prosecution of  
offences in  
England.**

**127.** (1) If any person holding office under the Crown in India commits any offence under this Act, or any offence against any person within his jurisdiction or subject to his authority, the offence may, without prejudice to any other jurisdiction, be inquired of, heard, tried and determined before His Majesty's High Court of Justice, and be dealt with as if committed in the county of Middlesex.

(2) Every British subject shall be amenable to all courts of justice in the United Kingdom, of competent jurisdiction to try offences committed in India, for any offence committed within India and outside British India, as if the offence had been committed within British India.

(*Part XI.—Offences, Procedure and Penalties.*  
*Part XII.—Supplemental.*)

**128.** Every prosecution before a high court in British India in respect of any offence referred to in the last foregoing section must be commenced within six years after the commission of the offence.

**Limitation for prosecutions in British India.**

**129.** If any person commits any offence referred to in this Act, he shall be liable to such fine or imprisonment or both as the court thinks fit, and shall be liable, at the discretion of the court, to be adjudged to be incapable of serving the Crown in India in any office, civil or military; and, if he is convicted in British India by a high court, the court may order that he be sent to Great Britain.

**Penalties.**

## **PART XII.—Supplemental.**

<sup>1</sup>[**129A.** (1) Where any matter is required to be prescribed or regulated by rules under this Act and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor-General in Council, with the sanction of the Secretary of State in Council, and shall not be subject to repeal or alteration by the Indian legislature or by any local legislature.

**Provisions as to rules.**

(2) Any rules made under this Act may be so framed as to make different provision for different provinces.

(3) Any rules to which sub-section (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it, praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder:

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the rules shall not be made, unless both Houses by resolution approve the draft either without modification or addition, or with modifications and additions to which both Houses agree, but, upon such approval being given, the

<sup>1</sup> Section 129A was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. V, Ch. 101).

*(Part XII.—Supplemental.)*

rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament.]

**Repeal.**

**130.** The Acts specified in the Fourth Schedule to this Act are hereby repealed, to the extent mentioned in the third column of that Schedule:

Provided that this repeal shall not affect—

- (a) the validity of any law, charter, letters patent, Order in Council, warrant, proclamation, notification, rule, resolution, order, regulation, direction or contract made, or form prescribed, or table settled, under any enactment hereby repealed and in force at the commencement of this Act, or
- (b) the validity of any appointment, or any grant or appropriation of money or property made under any enactment hereby repealed, or
- (c) the tenure of office, conditions of service, terms of remuneration or right to pension of any officer appointed before the commencement of this Act.

<sup>1</sup>[Any reference in any enactment, whether an Act of Parliament, or made by any authority in British India, or in any rules, regulations or orders made under any such enactment, or in any letters patent or other document, to any enactment repealed by this Act, shall for all purposes be construed as references to this Act, or to the corresponding provision thereof.]

<sup>1</sup>[Any reference in any enactment in force in India, whether an Act of Parliament, or made by any authority in British India, or in any rules, regulations, or orders made under any such enactment, or in any letters patent or other document, to any Indian legislative authority, shall for all purposes be construed as references to the corresponding authority constituted by this Act.]

**Savings.****Saving as to certain rights and powers.**

**131.** (1) Nothing in this Act shall derogate from any rights vested in His Majesty, or any powers of the Secretary of State in Council, in relation to the government of India.

<sup>1</sup> These paragraphs were inserted by Part I of Sch. II of the Government of India Act, 1910 (9 & 10 Geo. 5, Ch. 101).

*(Part XII.—Supplemental.)*

(2) Nothing in this Act shall affect the power of Parliament to control the proceedings of the Governor-General in Council, or to repeal or alter any law made by any authority in British India, or to legislate for British India and the inhabitants thereof.

(3) Nothing in this Act shall affect the power of the<sup>1</sup>[Indian legislature] to repeal or alter any of the provisions mentioned in the Fifth Schedule to this Act, or the validity of any previous exercise of this power.

**132.** All treaties made by the East India Company, so far as they are in force at the commencement of this Act, are binding on His Majesty, and all contracts made and liabilities incurred by the East India Company may, so far as they are outstanding at the commencement of this Act, be enforced by and against the Secretary of State in Council.

**Treaties,  
contracts and  
liabilities of  
East India  
Company.**

**133.** All orders, regulations and directions lawfully made or given by the Court of Directors of the East India Company, or by the Commissioners for the Affairs of India, are, so far as they are in force at the commencement of this Act, deemed to be orders, rules and directions made or given by the Secretary of State under this Act.

**Orders of East  
India Company.**

**134.** In this Act, unless the context otherwise requires,—

**Definitions.**

- (1) "Governor-General in Council" means the Governor-General in Executive Council;
- (2) "governor in council" means a governor in executive council;
- (3) "lieutenant-governor in council" means a lieutenant-governor in executive council;
- <sup>2</sup>[(4) "local government" means, in the case of a governor's province, the governor in council or the governor acting with ministers (as the case may require), and, in the case of a province other than a governor's province, a lieutenant-governor in council, lieutenant-governor or chief commissioner;
- "local legislative council" includes the legislative council in any governor's province and any other legislative council constituted in accordance with this Act;

<sup>1</sup> These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> Paragraph (4) was substituted by *ibid*.

*(Part XII.—Supplemental.)*

“local legislature” means, in the case of a governor’s province, the governor and the legislative council of the province, and, in the case of any other province, the lieutenant-governor or chief commissioner in legislative council];

- (5) “office” includes place and employment;
- (6) “province” includes a presidency; and
- (7) references to rules made under this Act include rules or regulations made under any enactment hereby repealed, until they are altered under this Act.

<sup>1</sup>[The expressions “official” and “non-official,” where used in relation to any person, mean respectively a person who is or is not in the civil or military service of the Crown in India :

Provided that rules under this Act may provide for the holders of such offices as may be specified in the rules not being treated for the purposes of this Act, or any of them, as officials.]

NOTE.—For the Non-official (Definition) Rules, see page 140, *post*.

**Short title.**

<sup>2</sup>[**135.** This Act may be cited as the Government of India Act.]

<sup>1</sup>This paragraph was inserted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, C. 101).

<sup>2</sup>Section 135 was substituted by Part II of *ibid*.

(*First Schedule.—Number of Members of Legislative Council. Second Schedule.—Official Salaries, etc.*)

## SCHEDULES.

### <sup>1</sup>First Schedule.

Section 72A.

#### Number of Members of Legislative Councils.

Legislative Council.	Number of Members.
Madras .. .. .	118
Bombay .. .. .	111
Bengal .. .. .	125
United Provinces .. .. .	118
Punjab .. .. .	83
Bihar and Orissa .. .. .	98
Central Provinces .. .. .	70
Assam .. .. .	53

### <sup>2</sup>Second Schedule.

Section 85

#### Official Salaries, etc.

Officer.	Maximum Annual Salary.
Governor-General of India .. .. .	Two hundred and fifty-six thousand rupees.
Governor of Bengal, Madras, Bombay and the United Provinces.	One hundred and twenty-eight thousand rupees.
Commander-in-Chief of His Majesty's forces in India.	One hundred thousand rupees.
Governor of the Punjab, and Bihar and Orissa.	One hundred thousand rupees.
Governor of the Central Provinces .. .. .	Seventy-two thousand rupees.
Governor of Assam .. .. .	Sixty-six thousand rupees.
Lieutenant-governor .. .. .	One hundred thousand rupees.
Member of the Governor-General's Executive Council (other than the Commander-in-Chief).	Eighty thousand rupees.
Member of the executive council of the governor of Bengal, Madras, Bombay and the United Provinces.	Sixty-four thousand rupees.
Member of the executive council of the governor of the Punjab, and Bihar and Orissa.	Sixty thousand rupees.
Member of the executive council of the governor of the Central Provinces.	Forty-eight thousand rupees.
Member of the executive council of the governor of Assam.	Forty-two thousand rupees.

<sup>1</sup> This Schedule was substituted by Part I of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> This Schedule was substituted by Part II of *ibid.*



(*Third Schedule.—Offices reserved to the Indian Civil Service. Fourth Schedule.—Acts Repealed.*)

Section 98.

### **Third Schedule.**

#### **Offices reserved to the Indian Civil Service.**

#### *A.—Offices under the Governor-General in Council.*

1. The offices of secretary, joint secretary and deputy secretary in every department except the Army, Marine, Education, Foreign, Political and Public Works Departments: Provided that if the office of secretary or deputy secretary in the Legislative Department is filled from among the members of the Indian Civil Service, then the office of deputy secretary or secretary in that department, as the case may be, need not be so filled.

#### 2. Three offices of Accountants-General.

#### *B.—Offices in the provinces which were known in the year 1861 as "Regulation Provinces."*

The following offices, namely:—

1. Member of the Board of Revenue.
2. Financial Commissioner.
3. Commissioner of Revenue.
4. Commissioner of Customs.
5. Opium Agent.
6. Secretary in every department, except the Public Works or Marine Department.
7. Secretary to the Board of Revenue.
8. District or sessions judge.
9. Additional district or sessions judge.
10. District magistrate.
11. Collector of Revenue or Chief Revenue Officer of a district.

Section 130.

### **Fourth Schedule.**

#### **Acts Repealed.**

Session and Chapter.	Short Title.	Extent of Repeal.
10 Geo. 3, c. 47 ..	The East India Company Act, 1770.	The Whole Act.
13 Geo. 3, c. 63 ..	The East India Company Act, 1772.	The whole Act, except sections <sup>1</sup> forty-two, forty-three and forty-five.

<sup>1</sup> This Schedule was substituted by Part II of Sch. II of the Government of India Act, 1916 (9 & 10 Geo. 5, Ch. 101).

<sup>2</sup> Sections forty-two forty-three and forty-five were repealed by the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37), Sch. II.

*(Fourth Schedule.—Acts Repealed.)*

Session and Chapter.	Short Title.	Extent of Repeal.
21 Geo. 3, c. 70 ..	The East India Company Act, 1780. * * * *	The Whole Act, except section eighteen. * * * *
*26 Geo. 3, c. 57 ..	The East India Company Act, 1786.	Section thirty-eight.
33 Geo. 3, c. 52 ..	The East India Company Act, 1793.	The whole Act.
37 Geo. 3, c. 142 ..	The East India Act, 1797	The whole Act, except section twelve.
39 & 40 Geo. 3, c. 79 ..	The Government of India Act, 1800.	The whole Act.
53 Geo. 3, c. 155 ..	The East India Company Act, 1813.	The whole Act.
55 Geo. 3, c. 84 ..	The Indian Presidency-towns Act, 1815.	The whole Act.
4 Geo. 4, c. 71 ..	The Indian Bishops and Courts Act, 1823.	The whole Act.
6 Geo. 4, c. 85 ..	The Indian Salaries and Pensions Act, 1825.	The whole Act.
7 Geo. 4, c. 56 ..	The East India Officers' Act, 1826. * * * *	The whole Act. * * * *
3 & 4 Will. 4, c. 85 ..	The Government of India Act, 1833.	The Whole Act, except section one hundred and twelve.
5 & 6 Will. 4, c. 52 ..	The India (North-West Provinces) Act, 1835.	The whole Act.
7 Will. 4 and 1 Vict., c. 47	The India Officers' Salaries Act, 1837.	The whole Act.
5 & 6 Vict., c. 119 ..	The Indian Bishops Act, 1842.	The whole Act.
16 & 17 Vict., c. 95 ..	The Government of India Act, 1853.	The whole Act.
17 & 18 Vict., c. 77 ..	The Government of India Act, 1854.	The whole Act.
21 & 22 Vict., c. 106 ..	The Government of India Act, 1858.	The whole Act, except section four.
22 & 23 Vict., c. 41 ..	The Government of India Act, 1859.	The whole Act.
23 & 24 Vict., c. 100 ..	The European Forces (India) Act, 1860.	The whole Act.
23 & 24 Vict., c. 102 ..	The East India Stock Act, 1860.	The whole Act, except section six.
24 & 25 Vict., c. 54 ..	The Indian Civil Service Act, 1861.	The whole Act.
24 & 25 Vict., c. 67 ..	The Indian Councils Act, 1861.	The whole Act.
24 & 25 Vict., c. 104 ..	The Indian High Courts Act, 1861.	The whole Act.
28 & 29 Vict., c. 15 ..	The Indian High Courts Act, 1865.	The whole Act.
28 & 29 Vict., c. 17 ..	The Government of India Act, 1865.	The whole Act.
32 & 33 Vict., c. 97 ..	The Government of India Act, 1869.	The whole Act.
32 & 33 Vict., c. 98 ..	The Indian Councils Act, 1869.	The whole Act.

\* 24 Geo. 3, sess. 2, c. 25 (The East India Company Act, 1784), was repealed by the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, C. 37), Sch. II.

\* The whole Act (26 Geo. 3, c. 57), was repealed by *ibid.*

\* 9 Geo. 4, c. 74 (The Criminal Law (India) Act, 1828), s. 56, except so far as in force in the Straits Settlements, was repealed by *ibid.*

*(Fourth Schedule.—Acts Repealed. Fifth Schedule.—  
Provisions of this Act which may be repealed or  
altered by the Indian Legislature.)*

Session and Chapter.	Short Title.	Extent of Repeal.
33 & 34 Vict., c. 3 ..	The Government of India Act, 1870.	The whole Act.
33 & 34 Vict., c. 59 ..	The East India Contracts Act, 1870.	The whole Act.
34 & 35 Vict., c. 34 ..	The Indian Councils Act, 1871.	The whole Act.
34 & 35 Vict., c. 62 ..	The Indian Bishops Act, 1871.	The whole Act.
37 & 38 Vict., c. 3 ..	The East India Loan Act, 1874.	Section fifteen.
37 & 38 Vict., c. 77 ..	The Colonial Clergy Act, 1874.	Section thirteen.
37 & 38 Vict., c. 91 ..	The Indian Councils Act, 1874.	The whole Act.
43 Vict., c. 3 ..	The Indian Salaries and Allowances Act, 1880.	The whole Act.
44 & 45 Vict., c. 63 ..	The India Office Auditor Act, 1881.	The whole Act.
47 & 48 Vict., c. 38 ..	The Indian Marine Service Act, 1884.	Sections two, three, four and five.
55 & 56 Vict., c. 14 ..	The Indian Councils Act, 1892.	The whole Act.
3 Edw. 7, c. 11 ..	The Contracts (India Office) Act, 1903.	The whole Act.
4 Edw. 7, c. 26 ..	The Indian Councils Act, 1904.	The whole Act.
7 Edw. 7, c. 35 ..	The Council of India Act, 1907.	The whole Act.
9 Edw. 7, c. 4 ..	The Indian Councils Act, 1909.	The whole Act.
1 & 2 Geo. 5, c. 18 ..	The Indian High Courts Act, 1911.	The whole Act.
1 & 2 Geo. 5, c. 25 ..	The Government of India Act Amendment Act, 1911.	The whole Act.
2 & 3 Geo. 5, c. 6 ..	The Government of India Act, 1912.	The whole Act.

**'Fifth Schedule.**

**Section 131 (3),**

**Provisions of this Act which may be repealed or altered by the  
[Indian legislature].**

Section.	Subject.
62 .. .. .	Power to extend limits of presidency-towns.
106 .. .. .	Jurisdiction, powers and authority of high courts.
108 (1) .. .. .	Exercise of jurisdiction of high court by single judges or division courts.

<sup>1</sup> This Schedule was substituted by Sch. I of the Government of India (Amendment) Act, 1916 (6 & 7 Geo. 5, Ch. 37).

<sup>2</sup> These words were substituted for the words "Governor-General in Legislative Council" by Part II of Sch. II of the Government of India Act, 1919 (9 & 10 Geo. 5, Ch. 101).

*(Fifth Schedule.—Provisions of this Act which may be repealed or altered by the Indian Legislature.)*

Section.	Subject.
109 .. ..	Power for Governor-General in Council to alter local limits of jurisdiction of high courts, etc.
110 .. ..	Exemption from jurisdiction of high courts.
111 .. ..	Written order by Governor-General in Council a justification for act in high court.
112 .. ..	Law to be administered in cases of inheritance, succession, contract and dealing between party and party.
114 (2) .. ..	Powers of advocate-general.
124 (1) .. ..	Oppression.
124 (4)—so far as it relates to persons employed or concerned in the collection of revenue or the administration of justice.	Trading.
124 (5)—so far as it relates to persons other than the Governor-General, a governor or a member of the Executive Council of the Governor-General or of a governor.	Receiving presents.
125 .. ..	Loans to princes or chiefs.
126 .. ..	Carrying on dangerous correspondence.
128 .. ..	Limitation for prosecutions in British India.
129 .. ..	Penalties.



# THE BENGAL LEGISLATIVE COUNCIL (WITNESSES) ACT, 1866<sup>1</sup>.

(Bengal Act III of 1866.)

An Act to provide for the attendance and examination of witnesses before the Council of the [Governor of Fort William in Bengal]<sup>2</sup> for making Laws and Regulations.

[28th March, 1866.]

Whereas it is expedient to make provision for the attendance of witnesses before the Council of the [Governor of Fort William in Bengal]<sup>2</sup> for making Laws and Regulations and for the examinations of such witnesses;

Preamble.

It is enacted as follows :—

1. It shall be lawful for the [Governor of Fort William in Bengal]<sup>2</sup>, by a summons under the hand of the Secretary or Assistant Secretary to the Government of Bengal in the Legislative Department for the time being, to require the attendance before the Council of the [Governor of Fort William in Bengal]<sup>2</sup> for making Laws and Regulations, at a time and place to be mentioned in such summons, of any person residing within any of the province or places subject to the Government of the [Governor of Fort William in Bengal]<sup>2</sup> whose evidence shall, in the judgment of such Council, be material with reference to any project of Law, Bill or Act then under consideration by such Council,

Power to summon persons to appear.

and by such summons to require the person so summoned to produce before such Council all such books, deeds and writings as to the said Council shall appear necessary for obtaining information as to the matter so under consideration;

and every person so summoned shall, according to the exigency of the summons, attend before the said Council,

<sup>1</sup> SHORT TITLE.—This short title was given by the Amending Act, 1903 (I of 1903), Sch. I, printed in Bengal Code, Ed. 1913—1915, Vol. I, p. 731.

LEGISLATIVE PAPERS.—For Statement of Objects and Reasons, see the *Cutcutta Gazette*, 1866, p. 252.

LOCAL EXTENT.—This Act was passed for the whole of the Province of Bengal as constituted before its partition in October, 1905—see s. 1.

The application of the Act is barred in the Chittagong Hill-Tracts by the Chittagong Hill-Tracts Regulation, 1900 (1 of 1900), s. 4 (2).

<sup>2</sup> The words in square brackets were substituted for the words "Lieutenant-Governor of Bengal" by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 5, and Sch. III, printed in the Bengal Code, Ed. 1913—1915, Vol. III, p. 859.

and produce such books, deeds and writings as shall be in his power, custody or control.

**Administration  
of an oath or  
affirmation.**

2. It shall be lawful for the said Secretary or Assistant Secretary to the Government of Bengal in the Legislative Department for the time being, or any other officer appointed in that behalf by the [Governor of Fort William in Bengal]<sup>1</sup> to administer an oath or affirmation,<sup>2</sup> in such form as to the said Council shall seem fit, to any person appearing in obedience to such summons as aforesaid. But nothing herein contained shall prevent such person from giving evidence without oath or affirmation, if the said Council shall think it expedient that the evidence should be so given.

**Powers against  
persons failing  
to appear, etc.**

3. If any person, upon whom any such summons shall be served by the delivery thereof to him, or leaving thereof at his usual or last known place of abode, shall, without reasonable cause (to be allowed by the said [Governor of Fort William in Bengal]<sup>1</sup>) fail to appear before the said Council at the time and place mentioned in the summons, or shall refuse to make oath or affirmation as required, or shall not make answer to such questions as shall be put to him touching the matter under consideration as aforesaid, or shall refuse or fail, without reasonable cause (to be allowed by the said [Governor of Fort William in Bengal]<sup>1</sup>), to produce to the said Council any book, deed or writing in his possession, power or control as by the said Council he shall be required to produce (whether mentioned in the summons or not), the [Governor of Fort William in Bengal]<sup>1</sup> shall, on the report of the said Council that such failure or refusal has taken place, have the power, by warrant under his hand, to direct that such person be apprehended and committed to close custody in a place and for a time specified in the warrant, unless he shall in the meantime comply, to the satisfaction of the said Council, with such requisitions as have been made on him touching his examination. The warrant may be directed to any officer appointed in that behalf by the [Governor of Fort William in Bengal]<sup>1</sup>.

**Expenses of  
witnesses.**

4. Whenever a summons is issued for the attendance of a witness under this Act, the [Governor of Fort William in Bengal]<sup>1</sup> may, if he thinks fit, order such witness to

<sup>1</sup> The words in square brackets were substituted for the words "Lieutenant-Governor" by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 5, and Sch. III, printed in the Bengal Code, Ed. 1918—1915, Vol. III, p. 859.

<sup>2</sup> As to oaths and affirmations, see the Indian Oaths Act, 1873 (X of 1873), in General Acts, 1868—78, Ed. 1909, p. 385.

receive, from the Collector or Commissioner of the district or division in which the witness resides, such expenses as he would have been entitled to receive if summoned as a witness before the principal Court of original jurisdiction within the limits of which he shall be residing.

5. The provisions of sections 21 and 32<sup>1</sup> of Act II of 1855 (*for the further improvement of the Law of Evidence*) shall extend to witnesses examined before the said Council of the [Governor of Fort William in Bengal].<sup>2</sup>

Provisions of sections 21 and 32 of Act II of 1855 extended.

6. Throughout this Act, unless the contrary appears from the context,—

Interpretation.

\* \* \* \*

the word “ Council ” shall include any committee of the whole Council and any Select Committee of the Council of the [Governor of Fort William in Bengal]<sup>3</sup> for making Laws and Regulations.

“ Council.”

<sup>1</sup> These sections are as follows:—

“ 21. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State, the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

32. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any civil or criminal proceeding, upon the ground that the answer to such question will criminate, or may tend, directly or indirectly, to criminate, such witness, or that it will expose, or tend, directly or indirectly, to expose, such witness to a penalty or forfeiture of any kind :

Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.”

Act II of 1855 has been repealed by the Indian Evidence Act, 1872 (I of 1872—printed in General Acts, 1868-78, Ed. 1909, p. 200), which does not expressly save references to the first mentioned Act; but this reference to the Act of 1855 appears to be unaffected by the repeal. See Crales on Statute Law, 1911, pp. 322, 323.

<sup>2</sup> The words in square brackets were substituted for the words “ Lieutenant-Governor of Bengal ” by the Bengal Laws Act, 1914 (Ben. Act I of 1914), s. 5, and Sch. III, printed in the Bengal Code, Ed. 1913—1915, Vol. III, p. 859.

<sup>3</sup> The clauses in s. 6, as to number and gender, were repealed by the Amending Act, 1903 (I of 1903) Sch. III, and are omitted. See now the Bengal General Clauses Act, 1890 (Ben. Act I of 1890), s. 14 printed in the Bengal Code, Ed. 1913—1915, Vol. III, p. 173.



## NOTIFICATION NO. 308 S., DATED THE 16TH DECEMBER, 1920.

### THE DEVOLUTION RULES.

In exercise of the powers conferred by sections 45A and 129A of the Government of India Act, the Governor-General in Council, with the sanction of the Secretary of State in Council, is pleased to make the following rules, the same having been approved by both Houses of Parliament :—

**Short title and  
commencement.**

1. (1) These rules may be called the Devolution Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India, and for different provisions of these rules.

**NOTE.**—All the provisions of these rules, except those contained in rules 14, 15, 16, 24, 27, 28, 29, 47 and 48 and Schedule III, came into force on the 3rd January, 1921, see Notification No. 314 S., dated the 17th December, 1920, in *Calcutta Gazette Extraordinary* of the 3rd January, 1921. The exceptions came into force on the 1st April, 1921, vide Notification No. 19 S., dated the 24th March, 1921, *Gazette of India*, dated 26th *idem*, Part I, page 474.

**Definitions.**

2. In these rules, unless there is anything repugnant in the subject or context,—

- (a) “ all-India revenues ” means such portion of the revenues of India as is not allocated to local Governments under these rules;
- (b) “ Schedule ” means a Schedule to these rules;
- (c) “ the Act ” means the Government of India Act.

### Part I.—Classification of subjects.

**Classification  
of subjects.**

3. (1) For the purpose of distinguishing the functions of the local Governments and local legislatures of Governors' provinces and of the province of Burma from the functions of the Governor-General in Council and the Indian legislature, subjects shall, in those provinces, be classified, in relation to the functions of Government, as central and provincial subjects in accordance with the lists set out in Schedule I.

(2) Any matter which is included in the list of provincial subjects set out in Part II of Schedule I shall, to the extent of such inclusion, be excluded from any central subject of which, but for such inclusion, it would form part.

4. Where any doubt arises as to whether a particular matter does or does not relate to a provincial subject, the Governor-General in Council shall decide whether the matter does or does not so relate, and his decision shall be final.

**Settlement of doubts.**

5. The local Government shall furnish to the Governor-General in Council from time to time such returns and information on matters relating to the administration of provincial subjects as the Governor-General in Council may require and in such form as he may direct.

**Duty of local Government to supply information.**

6. The provincial subjects specified in the first column of Schedule II shall, in the Governors' provinces shown against each subject in the second column of the said Schedule, be transferred subjects: provided that the Governor-General in Council may, by notification in the *Gazette of India*, with the previous sanction of the Secretary of State in Council, revoke or suspend for such period as he may consider necessary the transfer of any provincial subject in any province, and upon such revocation or during such suspension the subject shall not be a transferred subject.

**Transfer of subjects and revocations or suspension of transfer.**

7. If any doubt arises as to whether any matter relates to a reserved or to a transferred subject, the Governor shall decide the question, and his decision shall be final.

**Settlement of doubts.**

8. Where an Act of the Legislative Council of a Governor's province confers on local authorities powers of the management of matters relating to reserved subjects, those matters shall, to the extent of the powers conferred by such legislation, be deemed in that province to form part of the transferred subject of local self-government.

**Transfer in consequence of legislation.**

9. (1) When a matter appears to the Governor to affect substantially the administration both of a reserved and of a transferred subject, and there is disagreement between the member of the Executive Council and the minister concerned as to the action to be taken, it shall be the duty of the Governor, after due consideration of the advice tendered to him, to direct in which department the decision as to such action shall be given: provided that, in so far as circumstances admit, important matters on which there is such a difference of opinion shall, before the giving of such direction, be considered by the Governor with his Executive Council and his ministers together.

**Matters affecting both reserved and transferred subjects.**

(2) In giving such a direction as is referred to in sub-rule (1), the Governor may, if he thinks fit, indicate the

nature of the action which should in his judgment be taken, but the decision shall thereafter be arrived at by the Governor in Council or by the Governor and minister or ministers, according as the department to which it has been committed is a department dealing with reserved or a department dealing with transferred subjects.

**Regulation of  
exercise of  
authority over  
members of  
public services.**

10. The authority vested in the local Government over officers of the public services employed in a Governor's province shall be exercised in the case of officers serving in a department dealing with reserved subjects by the Governor in Council, and in the case of officers serving in a department dealing with transferred subjects by the Governor acting with the minister in charge of the department: provided that—

- (a) no order affecting emoluments or pensions, no order of formal censure, and no order on a memorial shall be passed to the disadvantage on an officer of an all-India or provincial service without the personal concurrence of the Governor; and
- (b) no order for the posting of an officer of an All-India service shall be made without the personal concurrence of the Governor.

**Service in a  
department.**

11. If an officer performs duties both in a department dealing with reserved subjects and in a department dealing with transferred subjects, the Governor shall decide in which department he shall be deemed to be serving.

**Employment of  
I. M. S. officers.**

12. A local Government shall employ such number of Indian Medical Service officers in such appointments and on such terms and conditions as may be prescribed by the Secretary of State in Council.

**Devolution.**

13. Subject to the provisions of these rules, provincial subjects shall be administered by the local Government. But, save in the case of transferred subjects, nothing in these rules shall derogate from the power of superintendence, direction, and control conferred on the Governor-General in Council by the Act.

## **Part II.—Financial arrangements.**

**Allocation of  
revenue.**

14. The following sources of revenue shall in the case of Governors' provinces and in the province of Burma, be

allocated to the local Government as sources of provincial revenue, namely:—

- (a) balances standing at the credit of the province at the time when the Act comes into force;
- (b) receipts accruing in respect of any provincial subject, other than the subject specified in entry 52 of Part II of Schedule I;

[Vide Notification No. 1786 E.A., dated the 3rd October, 1921, in the *Gazette of India* of the 8th *idem*, Pt. I, p. 1366.]

- (c) a share (to be determined in the manner provided by rule 15) in the growth of revenue derived from income-tax collected in the province, so far as that growth is attributable to an increase in the amount of income assessed;
- (d) recoveries of loans and advances given by the local Government and of interest paid on such loans;
- (e) payments made to the local Government by the Governor-General in Council or by other local Governments, either for services rendered or otherwise;
- (f) the proceeds of any taxes which may be lawfully imposed for provincial purposes;
- (g) the proceeds of any loans which may be lawfully raised for provincial purposes; and
- (h) any other sources which the Governor-General in Council may by order <sup>1</sup> declare to be sources of provincial revenue.

(2) The revenues of Berar shall be allocated to the local Government of the Central Provinces as a source of provincial revenue. This allocation shall be subject to the following conditions, namely:—

- (i) that the local Government of the Central Provinces shall be responsible for the due administration of Berar; and
- (ii) that if in the opinion of the Governor-General in Council provision has not been made for expenditure necessary for the safety and tranquillity of Berar, the allocation shall be terminated by order of the Governor-General in Council, or diminished by such amount as the Governor-General in Council may by order in writing direct.

<sup>1</sup> For an order declaring that fees charged in respect of the grant or renewal of licenses under the Indian Arms Rules, 1920, are a source of provincial revenue see notification No. 546A., dated the 21st July, 1921, in the *Gazette of India* of the 23rd *idem*, Pt. I, p. 985, and for another order declaring that any deposit, other than a personal deposit, which has been made with Government before 1st April, 1923, and which lapses or has lapsed to Government after 31st March, 1921, shall be a source of provincial revenue, see notification No. 642A., dated the 27th September, 1922, in the *Gazette of India* of 30th *idem*, Pt. I, p. 1192.

**Allocation of  
share in the  
income-tax.**

15. (1) Whenever the assessed income of any year subsequent to the year 1920-21 exceeds in any Governor's Province or in the Province of Burma the assessed income of the year 1920-21, there shall be allocated to the local Government of that province an amount calculated at the rate of three pies in each rupee of the amount of such excess.

(2) In this rule "the assessed income" of any year (other than the year 1920-21) means the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected, whether in that year or thereafter:

Provided that the assessed income of any year subsequent to the year 1920-21 shall not include income in respect of which no share of the tax collected would have been credited to provincial revenues if such income had accrued and been brought under assessment in the year 1920-21.

(3) The assessed income of the year 1920-21 shall be such amounts as the Governor-General in Council, after making due allowance for arrears caused by any abnormal delays in the collection of the tax, may determine as the amount of income brought under assessment under the Indian Income-tax Act, 1918, in that year in respect of which income-tax is collected. It shall not include income in respect of which no share of the tax collected was credited to provincial revenues: VII of 1918.

[Vide Notification No. 318 F., dated the 13th October, 1921, in the *Gazette of India* of the 15th *idem*, Pt. I, p. 1406. This revised rule took effect from 1st April, 1922.]

Provided that where in any year subsequent to the year 1920-21 the income derived from any business is for any reason assessed to income-tax in a province other than that in which it was assessed in that year, the assessed income of the year 1920-21 of such first-mentioned province shall be increased, and that of the other province shall be decreased, by the amount of the income of the business brought under assessment in that year on which income-tax was collected.

[Vide Notification No. F.-318-11, dated the 15th November, 1922, in the *Gazette of India* of the 18th *idem*, Pt. I, p. 1341.]

**Payment of  
Government  
revenues into  
the public  
account.**

16. All moneys derived from sources of provincial revenue shall be paid into the public account, of which the Governor-General in Council is custodian, and credited to the Government of the province. The Governor-

<sup>1</sup> The Indian Income-tax Act, 1918, (VII of 1918) has been repealed and re-enacted by the Indian Income-tax Act, 1922 (II of 1922).

General in Council shall have power, with the previous sanction of the Secretary of State in Council, to prescribe by general or special order the procedure to be followed in the payment of moneys into, and in the withdrawal, transfer and disbursement of moneys from, the public account, and for the custody of moneys standing in the account.

Such orders may, to such extent and for such purposes as may be stipulated, delegate power to prescribe procedure for the said purposes to the Auditor-General, the Controller of the Currency and to local Governments.

[Vide Notification No. 1A, dated the 3rd January, 1922, in the *Gazette of India* of the 7th *idem*, Pt. I, p. 4.]

17. In the financial year 1921-22 contributions shall be paid to the Governor-General in Council by the local Governments mentioned below according to the following scale:—

**Contributions  
by local  
Governments in  
1921-22.**

Name of Province.				Contributions (In lakhs of rupees.)
Madras	...	...	...	348
Bombay	...	...	...	56
Bengal	...	...	...	63
United Provinces	...	...	...	240
Punjab	...	...	...	175
Burma	...	...	...	64
Central Provinces and Berar	...	...	...	22
Assam	...	...	...	15

18. (1) From the financial year 1922-23 onwards a total contribution of 983 lakhs, or such smaller sum as may be determined by the Governor-General in Council, shall be paid to the Governor-General in Council by the local Governments mentioned in the preceding rule. When for any year the Governor-General in Council determines as the total amount of the contribution a smaller sum than that payable for the preceding year, a reduction shall be made in the contributions of those local Governments only whose last previous annual contribution exceeds the proportion specified below of the smaller sum so determined as the total contribution; and any reduction so made shall be proportionate to such excess:—

**Contributions  
in subsequent  
years.**

Madras	...	...	...	17—90ths
Bombay	...	...	...	13—90ths
Bengal	...	...	...	19—90ths
United Provinces	...	...	...	18—90ths
Punjab	...	...	...	9—90ths
Burma	...	...	...	6½—90ths
Central Provinces and Berar	...	...	...	5—90ths
Assam	...	...	...	2½—90ths

(2) Notwithstanding anything contained in sub-rule (1), the contribution payable thereunder by the local Government of Bengal in the financial years 1922-23, 1923-24 and 1924-25 shall be remitted by the Governor-General in Council:

Provided that for the purposes of sub-rule (1)—

- (a) the sum determined by the Governor-General in Council as the total amount of the contribution for each of the said financial years shall include the contribution so remitted, and
- (b) for the financial year 1925-26, the last previous annual contribution of the local Government of Bengal shall be deemed to be the remitted contribution for the year 1924-25.

[*Vide* Notification No. D. 3180, dated the 16th November, 1921, in the *Gazette of India* of the 19th *idem*, Pt. I, p. 1542.]

**Excess contributions in case of emergency.**

**19.** In cases of emergency the local Government of any province may be required by the Governor-General in Council, with the sanction of, and subject to the conditions approved by, the Secretary of State, to pay to the Governor-General in Council a contribution for any financial year in excess of the amount required by the preceding rules in the case of that year.

**Priority of contributions.**

**20.** The contributions\* fixed under the preceding rules shall be a first charge on the allocated revenues and moneys of the local Governments concerned, and shall be paid in such instalments, in such manner, and on such dates, as the Governor-General in Council may prescribe.

**Withdrawal of balances.**

**21.** At any time when he considers this course to be essential in the financial interests of India as a whole, the Governor-General in Council shall have power to require any local Government to which revenues have been allocated under these rules so to regulate its programme of expenditure as not to reduce the balance at its credit in the public account on a specified date or dates below a stated figure, and shall have power to take the necessary steps by the restriction of issues of moneys to secure this end. Subject to this power, those local Governments shall be at liberty to draw on their balances, provided that notice of the amount which they propose to draw during the ensuing financial year is given to the

\* The words "and assignment" were deleted, *vide* Notification No. 318 F., dated the 13th October, 1921, in the *Gazette of India* of the 15th *idem* Pt. I, p. 1406.

Governor-General in Council before such date in each year as the Governor-General in Council may by order fix.

**22.** Whenever the Governor-General in Council has, on receipt of due notice of the intention of the local Government to draw on its balances, required it to reduce the extent of the proposed draft, he shall, at the end of the financial year in which the local Government is debarred from drawing, credit the local Government with interest on the amount which it was not permitted to draw. Such interest shall be a charge on the revenues of India, and shall be calculated at the average rate at which the Governor-General in Council has borrowed money in the open market during the year by the issue of treasury bills.

**Interests on provincial balances.**

**23.** Any moneys which, on the 1st day of April, 1921, are owed to the Governor-General in Council on account of advances made from the provincial loan account of any province shall be treated as an advance to the local Government from the revenues of India, and shall carry interest at a rate calculated on the average rate carried by the total amount owed to the Governor-General in Council on this account on the 31st March, 1921. The interest shall be payable upon such dates as the Governor-General in Council may fix. In addition, the local Government shall pay to the Governor-General in Council in each year an instalment in repayment of the principal amount of the advance, and this instalment shall be so fixed that the total advance shall, except where, for special reasons, the Governor-General in Council may otherwise direct, be repaid before the expiry of twelve years. It shall be open to any local Government to repay in any year an amount in excess of the fixed instalment.

**Provincial Loan Account.**

**24.** (1) The capital sums spent by the Governor-General in Council upon the construction in the various provinces of productive and protective irrigation works and of such other works financed from loan funds as may from time to time be handed over to the management of local Governments shall be treated as advances made to the local Governments from the revenues of India. Such advances shall carry interest at the following rates, namely:—

**Capital expenditure on irrigation works.**

- (a) in case of outlay up to the end of the financial year 1916-17, at the rate of 3.3252 *per centum*;
- (b) in the case of outlay incurred after the financial year 1916-17, at the average rate of interest



paid by the Governor-General in Council on loans raised in the open market since the end of that year.

(2) The interest shall be payable upon such dates as the Governor-General in Council may fix.

**Advances by the  
Government of  
India.**

**25.** The Governor-General in Council may at any time make to a local Government an advance from the revenues or moneys accruing to the Governor-General in Council on such terms as to interest and repayment as he may think fit.

**Priority of  
interest charges.**

**26.** The payment of interest on loans and advances made under the three preceding rules, and the repayment of the principal of an advance under rule 23, shall be a charge on the annual allocated revenues of the local Government, and shall have priority over all other charges, save only contributions payable to the Governor-General in Council.

**Powers of  
sanctioning  
transferred  
expenditure.**

**27. (1)** The local Government of a Governor's province shall not, without the previous sanction of the Secretary of State in Council or of the Governor-General in Council, as the case may be, include any proposal for expenditure on a transferred subject in a demand for a grant, if such sanction is required by the provisions of Schedule III to these rules.

(2) Subject to the provisions of sub-rule (1), the local Government of a Governor's province shall have power to sanction expenditure on transferred subjects to the extent of any grant voted by the Legislative Council.

(3) The local Government of a Governor's province shall have power to sanction any expenditure on transferred subjects which relates to the heads enumerated in section 72D(3) of the Act, subject to the approval of the Secretary of State in Council or of the Governor-General in Council, if any such approval is required by any rule for the time being in force.

**Delegation of  
powers of  
sanction.**

**28. (1)** The powers of a local Government under the preceding rule to sanction expenditure may be delegated by the local Government to an authority subordinate to it, after previous consultation with the Finance Department, to such extent as may be required for the convenient and efficient despatch of public business.

(2) Any sanction accorded under these rules shall remain valid for the specified period for which it is given, subject, in the case of voted expenditure, to the voting of grants in each year.

**29.** Each local Government mentioned in Schedule IV shall establish and maintain out of provincial revenues a famine insurance fund in accordance with the provisions of that Schedule, and such fund shall be controlled and administered as required by those provisions.

**Famine Insurance Fund.**

**30.** All proposals for raising taxation or for the borrowing of money on the revenues of a province shall, in the case of a Governor's province, be considered by the Governor with his Executive Council and Ministers sitting together, but the decision shall thereafter be arrived at by the Governor in Council, or by the Governor and minister or ministers, according as the proposal originates with the Governor in Council or the Governor and ministers.

**Taxation and borrowing.**

**31.** Expenditure for the purpose of the administration of both reserved and transferred subjects shall, in the first instance, be a charge on the general revenues and balances of each province, and the framing of proposals for expenditure in regard to transferred and reserved subjects will be a matter for agreement between that part of the Government which is responsible for the administration of transferred subjects and that part of the Government which is responsible for the administration of reserved subjects.

**Allocation of revenues for the administration of transferred subjects.**

**32.** (1) If at the time of the preparation of the budget the Governor is satisfied that there is no hope of agreement within a reasonable time between the members of his Executive Council on the one hand and ministers on the other as to the apportionment of funds between reserved and transferred departments, respectively, he may, by order in writing, allocate the revenues and balances of the province between reserved and transferred subjects, by specifying the fractional proportions of the revenues and balances which shall be assigned to each class of subject.

**Procedure in event of failure to agree.**

(2) An order of allocation under this rule may be made by the Governor, either in accordance with his own discretion, or in accordance with the report of an authority to be appointed by the Governor-General in this behalf on the application of the Governor.

**33.** Every such order shall (unless it is sooner revoked) remain in force for a period to be specified in the order, which shall be not less than the duration of the then existing Legislative Council, and shall not exceed by more than one year the duration thereof:

**Period of order of allocation.**

Provided that the Governor may at any time, if his Executive Council and ministers so desire, revoke an

order of allocation or make such other allocation as has been agreed upon by them:

Provided, further, that if the order which it is proposed to revoke was passed in accordance with the report on an authority appointed by the Governor-General, the Governor shall obtain the consent of the Governor-General before revoking the same.

**Condition of  
order of  
allocation.**

34. Every order of allocation made under these rules shall provide that, if any increase of revenue accrues during the period of the order on account of the imposition of fresh taxation, that increase, unless the legislature otherwise directs, shall be allocated in aid of that part of the Government by which the taxation is initiated.

**Preparation  
of budget in  
default of  
agreement or  
order of  
allocation.**

35. If at the time of the preparation of any budget no agreement or allocation such as is contemplated by these rules has been arrived at, the budget shall be prepared on the basis of the aggregate grants, respectively, provided for the reserved and transferred subjects in the budget of the year about to expire.

### **PART III.—Finance Department.**

**Finance  
Department.**

36. (1) There shall be in each Governor's province a Finance Department, which shall be controlled by a member of the Executive Council.

(2) Immediately subordinate to the member there shall be a financial secretary, with whom shall be associated, if the ministers so desire, a joint secretary, appointed by the Governor after consultation with the ministers.

(3) The joint secretary shall be specially charged with the duty of examining and dealing with financial questions arising in relation to transferred subjects and with proposals for taxation or borrowing put forward by any minister.

**Functions of  
Finance  
Department.**

37. The Finance Department shall perform the following functions, namely:—

- (a) it shall be in charge of the account relating to loans granted by the local Government, and shall advise on the financial aspect of all transactions relating to such loans;
- (b) it shall be responsible for the safety and proper employment of the famine insurance fund;
- (c) it shall examine and report on all proposals for the increase or reduction of taxation;

- (d) it shall examine and report on all proposals for borrowing by the local Government, shall take all steps necessary for the purpose of raising such loans as have been duly authorised, and shall be in charge of all matters relating to the service of loans;
- (e) it shall be responsible for seeing that proper financial rules are framed for the guidance of other departments, and that suitable accounts are maintained by other departments and establishments subordinate to them;
- (f) it shall prepare an estimate of the total receipts and disbursements of the province in each year, and shall be responsible during the year for watching the state of the local Government's balances;
- (g) in connection with the budget and with supplementary estimates—
  - (i) it shall prepare the statement of estimated revenue and expenditure which is laid before the Legislative Council in each year and any supplementary estimates or demands for excess grants which may be submitted to the vote of the Council;
  - (ii) for the purpose of such preparation, it shall obtain from the departments concerned material on which to base its estimates, and it shall be responsible for the correctness of the estimates framed on the material so supplied;
  - (iii) it shall examine and advise on all schemes of new expenditure for which it is proposed to make provision in the estimates, and shall decline to provide in the estimates for any scheme which has not been so examined;
- (h) on receipt of a report from an audit officer to the effect that expenditure for which there is no sufficient sanction is being incurred, it shall require steps to be taken to obtain sanction, or that the expenditure shall immediately cease;
- (i) it shall lay the audit and appropriation reports before the committee on public accounts, and

shall bring to the notice of the committee all expenditure which has not been duly authorised and any financial irregularities;

- (j) it shall advise departments responsible for the collection of revenue regarding the progress of collection and the methods of collection employed.

**Powers of  
Finance  
Department  
with reference to  
re-appropriation.**

**38.** (1) After grants have been voted by the Legislative Council—

- (a) the Finance Department shall have power to sanction any re-appropriation within a grant from one major, minor or subordinate head to another;

- (b) the member or minister in charge of a department shall have power to sanction any re-appropriation within a grant between heads subordinate to a minor head which does not involve undertaking a recurring liability, provided that a copy of any order sanctioning such a re-appropriation shall be communicated to the Finance Department as soon as it is passed.

(2) The Finance Department shall have power to sanction the delegation by a member or minister to any officer or class of officers of the power of re-appropriation conferred on such member or minister by clause (1) (b) above.

(3) Copies of orders sanctioning any re-appropriation which does not require the sanction of the Finance Department shall be communicated to that department as soon as such orders are passed.

**Matters to be  
referred to  
Finance  
Department.**

**39.** No expenditure on any of the heads detailed in section 72-D (3) of the Act which is in excess of the estimate for that head shown in the budget of the year shall be incurred without previous consultation with the Finance Department.

**Establishment  
changes.**

**40.** No office may be added to, or withdrawn from, the public service in the province, and the emoluments of no post may be varied, except after consultation with the Finance Department; and when it is proposed to add a permanent or temporary post to the public service, the Finance Department shall, if it thinks necessary, refer for the decision of the Audit Department the question whether the sanction of the Secretary of State in Council is, or is not, necessary.

**41.** No allowance and no special or personal pay shall be sanctioned for any post or class of posts or for any Government servant without previous consultation with the Finance Department. **Allowances and pay.**

**42.** No grant of land or assignment of land revenue, except when the grant is made under the ordinary revenue rules of the province, shall be given without previous consultation with the Finance Department; and no concession, grant or lease of mineral or forest rights, or right to water power or of right-of-way or other easement and no privilege in respect of such rights shall be given without such previous consultation. **Grants and concessions.**

**43.** No proposal involving an abandonment of revenue for which credit has been taken in the budget, or involving expenditure for which no provision has been made in the budget, shall be submitted for the consideration of the local Government or the Legislative Council, nor shall any orders giving effect to such proposals issue without a previous reference to the Finance Department. **Abandonment of revenue, etc.**

**44.** Every report made by the Finance Department on any matter on which it is required to advise or report under these rules shall be forwarded to the department concerned, and shall, if the Finance Department so require, be submitted by the department concerned to the Governor for the orders of the local Government. The Governor may, if he thinks fit, direct that any such report shall be laid before the committee on public accounts. **Disposal of reports by Finance Department.**

**45.** Wherever previous consultation with the Finance Department is required by these rules it shall be open to that department to prescribe, by general or special order, cases in which its assent may be presumed to have been given. **Presumption of assent of Finance Department.**

#### **Part IV.—Agency.**

**46.** The Governor-General in Council may employ the agency of the Governor in Council of any province in the administration of central subjects in so far as such agency may be found convenient. **Agency employment of local Governments.**

**47.** The cost of an establishment exclusively employed on the business of agency shall be a charge against all-India revenue. **Cost of Agency establishments.**

**48.** If a joint establishment is employed upon the administration of central and provincial subjects, the cost of such establishment may be distributed in such manner **Distribution of cost of joint establishment.**

as the Governor-General in Council and the Governor in Council of the province concerned may agree, or, in the case of disagreement, in such manner as may be determined by the Secretary of State in Council.

### Part V.—Limitation of control.

**Limitation of control by Governor-General in Council over transferred subjects.**

49. The powers of superintendence, direction, and control over the local Government of a Governor's province vested in the Governor-General in Council under the Act shall, in relation to transferred subjects, be exercised only for the following purposes, namely:—

- (1) to safeguard the administration of central subjects;
- (2) to decide questions arising between two provinces, in cases where the provinces concerned fail to arrive at an agreement; and
- (3) to safeguard the due exercise and performance of any powers and duties possessed by, or imposed on, the Governor-General in Council under, or in connection with, or for the purposes of, the following provisions of the Act, namely, section 29-A, section 30 (1-A), Part VIIA, or of any rules made by, or with the sanction of, the Secretary of State in Council.

## SCHEDULE I.

(See Rule 3.)

### PART I.—Central Subjects.

1. (a) Defence of India, and all matters connected with His Majesty's Naval, Military and Air Forces in India, or with His Majesty's Indian Marine Service, or with any other force raised in India other than military and armed police wholly maintained by local Governments.

(b) Naval and military works and cantonments.

2. External relations, including naturalisation and aliens, and pilgrimages beyond India.

3. Relations with States in India.

4. Political charges.

5. Communications to the extent described under the following heads, namely:—

- (a) railways and extra-municipal tramways, in so far as they are not classified as provincial subjects under entry 6 (d) of Part II of this Schedule;
- (b) aircraft and all matters connected therewith; and
- (c) inland waterways, to an extent to be declared by rule made by the Governor-General in Council or by or under legislation by the Indian legislature.

6. Shipping and navigation, including shipping and navigation on inland waterways, in so far as declared to be a central subject in accordance with entry 5 (c).

7. Light-houses (including their approaches), beacons, lightships and buoys.

8. Port quarantine and marine hospitals.

9. Ports declared to be major ports<sup>1</sup> by rule made by the Governor-General in Council or by or under legislation by the Indian legislature.

10. Posts, telegraphs and telephones, including wireless installations.

11. Customs, cotton, excise duties, income-tax, salt and other sources of all-India revenues.

12. Currency and coinage.

13. Public debt of India.

14. Savings Banks.

15. The India Audit Department and excluded audit departments, as defined in rules framed under section 96D (1) of the Act.

16. Civil law, including laws regarding status, property, civil rights and liabilities, and civil procedure.

17. Commerce, including banking and insurance.

18. Trading companies and other associations.

19. Control of production, supply, and distribution of any articles in respect of which control by a central authority is declared by rule made by the Governor-General in Council or by or under legislation by the Indian legislature to be essential in the public interest.

20. Development of industries, in cases where such development by a central authority is declared by order of the Governor-General in Council, made after consultation

<sup>1</sup> By Notification No. 1169, dated the 19th February, 1921, the ports of Calcutta, Bombay, Karachi, Aden, Rangoon and Madras have been declared as major ports.



with the local Government or local Governments concerned, expedient in the public interest.

21. Control of cultivation and manufacture of opium, and sale of opium for export.

22. Stores and Stationery, both imported and indigenous, required for Imperial Departments.

23. Control of petroleum and explosives.

24. Geological survey.

25. Control of mineral development, in so far as such control is reserved to the Governor-General in Council under rules made or sanctioned by the Secretary of State, and regulation of mines.

26. Botanical survey.

27. Inventions and designs.

28. Copyright.

29. Emigration from, and immigration into, British India, and inter-provincial migration.

30. Criminal Law, including criminal procedure.

31. Central police organisation.

32. Control of arms and ammunition.

33. Central agencies and institutions for research (including observatories) and for professional or technical training or promotion of special studies.

34. Ecclesiastical administration, including European cemeteries.

35. Survey of India.

36. Archæology.

37. Zoological Survey.

38. Meteorology.

39. Census and Statistics.

40. All-India Services.

41. Legislation in regard to any provincial subject, in so far as such subject is in Part II of this Schedule stated to be subject to legislation by the Indian legislature, and any powers relating to such subject reserved by legislation to the Governor-General in Council.

42. Territorial changes, other than inter-provincial, and declaration of laws in connection therewith.

43. Regulation of ceremonial titles, orders, precedence and civil uniform.

44. Immoveable property acquired by, and maintained at the cost of, the Governor-General in Council.

45. The Public Services Commission.

46. All matters expressly excepted by the provisions of Part II of this Schedule from inclusion among provincial subjects.

47. All other matters not included among provincial subjects under Part II of this Schedule.

### PART II.—Provincial Subjects.

XV of 1910.

1. Local self-government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health, and other local authorities established in a province for the purpose of local self-government, exclusive of matters arising under the Cantonments Act, 1910; subject to legislation by the Indian legislature as regards—

- (a) the powers of such authorities to borrow otherwise than from a provincial government, and
- (b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.<sup>1</sup>

2. Medical administration, including hospitals, dispensaries, and asylums and provision for medical education.

3. Public health and sanitation and vital statistics, subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.

4. Pilgrimages within British India.

5. Education: provided that—

- (a) the following subjects shall be excluded, namely:—
  - (i) the Benares Hindu University, <sup>2</sup>[the Aligarh Muslim University] and such other Universities constituted after the commencement of these rules as may be declared by the Governor-General in Council to be central subjects, and

- (ii) Chiefs' Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants; and

- (b) the following subjects shall be subject to legislation by the Indian legislature, namely:—

- (i) the control of the establishment, and the regulation of the constitutions and functions of Universities constituted after the commencement of these rules, and

<sup>1</sup> Printed *post*, p. 135.

<sup>2</sup> These words were inserted by the Government of India Notification No. 11-S., dated the 10th February, 1921, in the *Calcutta Gazette* of the 23rd *idem*, Pt. IA, p. 77.

- (ii) the definition of the jurisdiction of any University outside the province in which it is situated, and
- (iii) for a period of five years, from the date of the commencement of these rules, the Calcutta University, and the control and organization of secondary education in the presidency of Bengal.

6. <sup>1</sup>[Public works, other than those falling under entry 14 of this part and included under the following heads, namely] :—

- (a) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province and care of historical monuments, with the exception of ancient monuments as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3 (1) of that Act: provided that the Governor-General in Council may, by notification in the *Gazette of India*, remove any such monument from the operation of this exception;
- (b) roads, bridges, ferries, tunnels, ropeways and causeways, and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor-General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor-General in Council may prescribe;
- (c) tramways within municipal areas; and
- (d) light and feeder railways and extra-municipal tramways, in so far as provision for their construction and management is made by provincial legislation; subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same guage as an adjacent main line.

7. Water-supplies, irrigation and canals, drainage and embankments, water storage and water power; subject to legislation by the Indian legislature with regard to matters

<sup>1</sup> These words were substituted by Notification No. F.—975, dated the 22nd November, 1922, in the *Gazette of India* of the 25th *idem*, Pt. I, p. 1364.

of inter-provincial concern or affecting the relations of a province with any other territory.

8. Land revenue administration, as described under the following heads, namely :—

- (a) assessment and collection of land revenue;
- (b) maintenance of land records, survey for revenue purposes, records-of-rights;
- (c) laws regarding land tenures, relations of landlords and tenants, collection of rents;
- (d) Courts of Wards, encumbered and attached estates;
- (e) land improvement and agricultural loans;
- (f) colonisation and disposal of Crown lands and alienation of land revenue; and
- (g) management of Government estates.

9. Famine relief.

10. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases, subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian legislature.

11. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.

12. Fisheries.

13. Co-operative Societies.

14. Forests, including preservation of game therein<sup>1</sup> [and all buildings and works executed by the Forest Department]; subject to legislation by the Indian legislature as regards disforestation of reserved forests.

15. Land acquisition; subject to legislation by the Indian legislature.

16. Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and licence fees on, or in relation to, such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.

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<sup>1</sup> These words were inserted by Notification No. 975, dated the 22nd November, 1922, in the *Gazette of India* of the 25th *idem*, Pt. I, p. 1364.

17. Administration of justice, including constitution, power, maintenance and organisation of courts of civil and criminal jurisdiction within the province; subject to legislation by the Indian legislature as regards High Courts, Chief Courts and Courts of Judicial Commissioners, and any courts of criminal jurisdiction.

18. Provincial law reports.

19. Administrators-General and Official Trustees; subject to legislation by the Indian legislature.

20. Non-judicial stamps, subject to legislation by the Indian legislature, and judicial stamps, subject to legislation by the Indian legislature as regards amount of court-fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.

21. Registration of deeds and documents; subject to legislation by the Indian legislature.

22. Registration of births, deaths, and marriages; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.

23. Religious and charitable endowments.

24. Development of mineral resources which are Government property; subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.

25. Development of industries, including industrial research and technical education.

26. Industrial matters included under the following heads, namely :—

(a) factories;

(b) settlement of labour disputes;

(c) electricity;

(d) boilers;

(e) gas;

(f) smoke-nuisances; and

(g) welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing;

subject as to heads (a), (b), (c), (d) and (g) to legislation by the Indian legislature.

27. Stores and stationery; subject, in the case of imported stores and stationery to such rules as may be prescribed by the Secretary of State in Council.

28. Adulteration of foodstuffs and other articles; subject to legislation by the Indian legislature as regards import and export trade.

29. Weights and measures; subject to legislation by the Indian legislature as regards standards.

30. Ports, except such ports as may be declared<sup>1</sup> by rule made by the Governor-General in Council or by or under Indian legislation to be major ports.

31. Inland waterways, including shipping and navigation thereon so far as not declared by the Governor-General in Council to be central subjects; but subject as regards inland steam-vessels to legislation by the Indian legislature.

32. Police, including railway police; subject, in the case of railway police, to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor-General in Council may determine.

33. The following miscellaneous matters, namely :—

- (a) regulation of betting and gambling;
- (b) prevention of cruelty to animals;
- (c) protection of wild birds and animals;
- (d) control of poisons; subject to legislation by the Indian legislature;
- (e) control of motor-vehicles; subject to legislation by the Indian legislature as regards licences valid throughout British India; and
- (f) control of dramatic performances and cinematographs; subject to legislation by the Indian legislature in regard to sanction of films for exhibition.

34. Control of newspapers, books and printing presses; subject to legislation by the Indian legislature.

35. Coroners.

36. Excluded areas.

37. Criminal tribes; subject to legislation by the Indian legislature.

38. European vagrancy; subject to legislation by the Indian legislature.

39. Prison, prisoners (except State prisoners), and reformatories; subject to legislation by the Indian legislature.

40. Pounds and prevention of cattle trespass.

41. Treasure trove.

42. Libraries (except the Imperial Library) and museums (except the Indian Museum, the Imperial War Museum and the Victoria Memorial, Calcutta), and Zoological Gardens.

43. Provincial Government presses.

44. Elections for Indian and provincial legislatures; subject to rules framed under sections 64 (1) and 72A (4) of the Act.

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<sup>1</sup> See footnote on page 119, *ante*.

45. Regulation of medical and other professional qualifications and standards; subject to legislation by the Indian legislature.

46. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

47. Control, as defined by rule 10, of members of all-India and provincial services serving within the province, and control, subject to legislation by the Indian legislature, of public services within the province other than all-India services.

48. Sources of provincial revenue, not included under previous heads, whether—

(a) taxes included in the Schedules to the Scheduled Taxes Rules<sup>1</sup>; or

(b) taxes not included in those Schedules which are imposed by or under provincial legislation which has received the previous sanction of the Governor-General.

49. Borrowing of money on the sole credit of the province; subject to the provisions of the local Government (Borrowing) Rules<sup>2</sup>.

50. Imposition by legislation of punishments by fine, penalty or imprisonment for enforcing any law of the province relating to any provincial subject; subject to legislation by the Indian legislature in the case of any subject in respect of which such a limitation is imposed under these rules.

51. Any matter which, though falling within a central subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.

NOTE.—Matters relating to the survey of minor air routes lying wholly within a single province and to the provision, maintenance and management of flying services, aerodromes and landing places for aircraft on such routes have been so declared by Notification No. 1702, dated the 5th March, 1921, on page 98, Part IA of the *Calcutta Gazette* of the 16th *idem*; (i) Provincial Gazetteers, (ii) Provincial Statistics and Provincial Statistical Memoirs and (iii) Preservation and Translation of Ancient Manuscripts are matters of a merely local nature in all provinces, see Notification No. 942 A., dated the 21st December, 1921, in the *Gazette of India* of the 24th *idem*, Pt. I, p. 1702; in every province having a Legislative Council the preparation, publication and distribution of the provincial code constitute a matter of a merely local nature, see Notification No. 146, dated the 21st December, 1922 in the *Gazette of India* of the 23rd *idem*, Pt. I, p. 1523.

52. Matters pertaining to a central subject, in respect of which powers have been conferred by or under any law upon a local Government.

<sup>1</sup> Printed *post*, p. 135

<sup>2</sup> Printed *post*, p. 133.

## SCHEDULE II.

(See rule 6.)

## List of Provincial Subjects for Transfer.

XV of 1910.

Column I.	Column II.
<p>1. Local self-government—that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in the province for purposes of local self-government, exclusive of matters arising under the Cantonments Act, 1910, subject to legislation by the Indian legislature as regards (a) the powers of such authorities to borrow otherwise than from a provincial Government, and (b) the levying by such authorities of taxation not included in<sup>1</sup> Schedule II to the Scheduled Taxes Rules.<sup>2</sup></p> <p>2. Medical administration, including hospitals, dispensaries and asylums, and provision for medical education.</p> <p>3. Public health and sanitation and vital statistics; subject to legislation by the Indian legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian legislature.</p> <p>4. Pilgrimages within British India . . . .</p> <p>5. Education, other than European and Anglo-Indian education, provided that—          (a) the following subjects shall be excluded, namely :—              (i) the Benares Hindu University, [the Aligarh Muslim University], and such other Universities, constituted after the commencement of these rules, as may be declared by the Governor-General in Council to be central subjects; and              (ii) Chiefs' Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants; and          (b) the following subjects shall be subject to legislation by the Indian legislature, namely :—              (i) the control of the establishment and the regulation of the constitutions and functions of Universities constituted after the commencement of these rules; and              (ii) the definition of the jurisdiction of any University outside the province in which it is situated; and</p>	<p>All Governors' provinces.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p> <p>Ditto.</p>

<sup>1</sup> Printed *post*, p. 136.<sup>2</sup> It has been decided that control of rents should be treated as a transferred subject.<sup>3</sup> The words in square brackets were inserted by the Government of India Notification No. 11-S, dated the 10th February, 1921, on page 77, Part IA of the *Calcutta Gazette* of the 23rd *idem*.



Column I.	Column II.
(iii) for a period of five years, from the date of the commencement of these rules, the Calcutta University and the control and organization of secondary education in the Presidency of Bengal.	
6. '[Public works, other than those falling under entry 11 of this Part, and included under the following heads, namely]:—	All Governors' provinces, except Assam.
(a) construction and maintenance of provincial buildings, other than residences of Governors of provinces used or intended for any purpose in connection with the administration of the province on behalf of the departments of Government concerned, save in so far as the Governor may assign such work to the departments using or requiring such buildings; and care of historical monuments, with the exception of ancient monuments, as defined in section 2(1) of the Ancient Monuments Preservation Act, 1904, which are for the time being declared to be protected monuments under section 3(1) of that Act: provided that the Governor-General in Council may, by notification in the <i>Gazette of India</i> , remove any such monument from the operation of this exception;	
(b) roads, bridges, ferries, tunnels, rope-ways and causeways, and other means of communication, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor-General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor-General in Council may prescribe;	
(c) tramways within municipal areas; and	
(d) light and feeder railways and extra-municipal tramways, in so far as provision for their construction and management is made by provincial legislation, subject to legislation by the Indian legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.	
7. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases; subject to legislation by the Indian legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian legislature.	All Governors' provinces.

<sup>1</sup> These words were substituted by Notification No. 975, dated the 22nd November, 1922, in the *Gazette of India*, dated the 25th *idem*, Pt. I, p. 1364.

Column I.	Column II.
8. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases; subject to legislation by the Indian legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian legislature.	All Governors' provinces.
9. Fisheries .. .. .	All Governors' provinces, except Assam.
10. Co-operative Societies .. .. .	All Governors' provinces.
11. Forests, including preservation of game therein, [and all buildings and works executed by the Forest Department]; subject to legislation by the Indian legislature as regards disforestation of reserved forests.	Bombay.
12. Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on, or in relation to, such articles, but excluding, in the case of opium, control of cultivation, manufacture, and sale for export.	All Governors' provinces, except Assam.
13. Registration of deeds and documents; subject to legislation by the Indian legislature.	All Governors' provinces.
14. Registration of births, deaths, and marriages; subject to legislation by the Indian legislature for such classes as the Indian legislature may determine.	Ditto.
15. Religious and charitable endowments ..	Ditto.
16. Development of industries, including industrial research and technical education.	Ditto.
17. Stores and stationery required for transferred departments; subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.	Ditto.
18. Adulteration of food stuffs and other articles; subject to legislation by the Indian legislature as regards import and export trade.	Ditto.
19. Weights and measures: subject to legislation by the Indian Legislature as regards standards.	Ditto.
20. Libraries (other than the Imperial Library), Museums (except the Indian Museum, the Imperial War Museum, and the Victoria Memorial, Calcutta), and Zoological Gardens.	Ditto.

### SCHEDULE III.

(See rule 27.)

#### Rules relating to Transferred Subjects

1. The previous sanction of the Secretary of State in Council is necessary—

(1) to the creation of any new or the abolition of any existing permanent post, or to the increase or reduction of the pay <sup>2</sup>[drawn by the incumbent of] any permanent post, if the post in either

<sup>1</sup> These words were inserted by Notification No. 975, dated the 22nd November, 1922, in the *Gazette of India* of the 25th *idem*, Pt. I, p. 1364.

<sup>2</sup> These words were substituted by Notification No. 1207, dated the 6th February, 1923, in the *Gazette of India* of the 10th *idem*, Pt. I, p. 126.

case is one which would ordinarily be held by a member of an all-India service, or to the increase or reduction of the cadre of an all-India service;

- (2) to the creation of a permanent post on a maximum rate of pay exceeding Rs. 1,200 a month, or the increase of the maximum pay of a sanctioned permanent post to an amount exceeding Rs. 1,200 a month;
- (3) to the creation of a temporary post with pay exceeding Rs. 4,000 a month or to the extension beyond a period of two years of a temporary post <sup>1</sup>[or deputation] with pay exceeding Rs. 1,200 a month;
- (4) to the grant to any <sup>2</sup>[Government servant or to the family or other dependants of any deceased Government servant] of an allowance, pension or gratuity which is not admissible under rules made or for the time being in force under section 96B of the Act, <sup>3</sup>[except in the following cases:—

- (a) compassionate gratuities to the families of Government servants left in indigent circumstances, subject to such annual limit as the Secretary of State in Council may prescribe; and

- (b) pensions or gratuities to Government servants wounded or otherwise injured while employed in Government service or to the families of Government servants dying as the result of wounds or injuries sustained while employed in such service, granted in accordance with such rules as have been or may be laid down by the Secretary of State in Council in this behalf]; and

- (5) to any expenditure on the purchase of imported stores or stationery otherwise than in accordance with such rules as may be made in this behalf by the Secretary of State in Council.

2. (1) Every application for the sanction of the Secretary of State in Council required by paragraph 1 shall be addressed to the Governor-General in Council, who shall, save as hereinafter provided, forward the same

<sup>1</sup> These words were inserted by Notification No. 1207, dated the 6th February, 1923, in the *Gazette of India* of the 10th *idem*, Pt. I, p. 126.

<sup>2</sup> These words were substituted by *ibid*.

<sup>3</sup> This portion in square brackets were inserted by *ibid*.

with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, to the Secretary of State in Council.

(2) If the application relates to—

(a) the grant in an individual case of any increase of pay; or

(b) the creation of a temporary post, the Governor-General in Council may, at his discretion, on behalf of the Secretary of State in Council, sanction the proposal, or may, and, if he dissents from the proposal, shall, forward the application with his recommendations, and with such further explanations of the proposal as he may have seen fit to require from the local Government, for the orders of the Secretary of State in Council.

#### SCHEDULE IV.

(See rule 29.)

1. The local Governments mentioned below shall, save as hereinafter provided, make in every year provision in their budgets for expenditure upon relief of, and insurance against, famine of such amounts, respectively (hereinafter referred to as the annual assignments), as are stated against each:—

				Rs.
Madras	...	...	...	6,61,000
Bombay	...	...	...	63,60,000
Bengal	...	...	...	2,00,000
United Provinces	...	...	...	39,60,000
Punjab	...	...	...	3,81,000
Burma	...	...	...	67,000
Bihar and Orissa	...	...	...	11,62,000
Central Provinces	...	...	...	47,26,000
Assam	...	...	...	10,000

<sup>1</sup>[2. The annual assignment shall not be expended, save upon the relief of famine or the construction of protective irrigation works or other works for the prevention of famine. Any portion of an assignment which is not so spent shall be transferred to the famine insurance fund of the province.]

<sup>1</sup>[3. The local Government, in making provision in its budget for the annual assignment, shall include in demands for grants such portion of the assignment as is proposed

<sup>1</sup> Paragraphs 2 and 3 were substituted by Notification No. 1079, dated the 12th April, 1922, in the *Gazette of India* of the 15th idem, Pt. I, p. 466.

to be expended for the relief of famine or the construction of protective irrigation works or other works for the prevention of famine. The amount required, over and above the grants voted for the aforesaid purposes, to make up the total of the annual assignment shall not be included in a demand for a grant, but shall be provided in the shape of a lump sum allocated for transfer to the famine insurance fund.]

4. The famine insurance fund shall consist of the unexpended balances of the annual assignments for each year, transferred to the fund under paragraph <sup>1</sup>[2] of this Schedule, together with any interest which may accrue on these balances.

5. The local Government may, in any year when the accumulated total of the famine insurance fund of the province is not less than six times the amount of the annual assignment, suspend temporarily the provision of the annual assignment.

6. The famine insurance fund shall form part of the general balances of the Governor-General in Council, who shall pay at the end of each year interest on the average of the balances held in the fund on the last day of each quarter. The interest shall be calculated at the average rate at which the Governor-General in Council has during the year borrowed money by the issue of treasury bills. Such interest shall be credited to the fund.

7. The local Government may at any time expend the balance at its credit in the famine insurance fund for any of the purposes specified in paragraph <sup>1</sup>[2] of this Schedule.

8. Such balances may further be utilised in the grant of loans to cultivators, either under the Agriculturists' Loans Act, 1884, or for relief purposes. When such loans have been granted, payments of interest on loans and repayments of principal shall be credited to the fund as they occur, and irrecoverable loans written off shall form a final charge against the fund.

9. In case of doubt whether the purpose for which it is proposed to spend any portion of the annual assignment or the famine insurance fund is one of the purposes specified in paragraph <sup>1</sup>[2] of this Schedule, the decision of the Governor shall be final.

10. The annual accounts of the annual assignments and of the fund shall be maintained in forms to be prescribed in this behalf by the Auditor-General.

XII of 1884.

<sup>1</sup> This figure "2" was substituted for figure "3" by Notification No. 1079, dated the 12th April, 1922, in the *Gazette of India* of the 15th *idem.*, pt. I, p. 496.

## The Local Government (Borrowing) Rules.

1. (1) These rules may be called the Local Government (Borrowing) Rules.

**Short Title and Commencement.**

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

NOTE.—Under Notification No. 315-S., dated the 17th December, 1920 in the *Calcutta Gazette, Extraordinary*, dated the 3rd January, 1921, these rules were brought into force in Bengal on the 3rd January, 1921.

2. A local Government may raise loans on the security of the revenues allocated to it for any of the following purposes, namely:—

**Purposes for which loans may be raised.**

- (a) to meet capital expenditure on the construction or acquisition (including the acquisition of land, maintenance during construction and equipment) of any work or permanent asset of a material character in connection with a project of lasting public utility, provided that—
  - (i) the proposed expenditure is so large that it cannot reasonably be met from current revenues; and
  - (ii) if the project appears to the Governor-General in Council unlikely to yield a return of not less than such percentage as he may from time to time by order prescribe, arrangements are made for the amortisation of the debt;
- (b) to meet any classes of expenditure on irrigation which have under rules in force before the passing of the Act been met from loan funds;
- (c) for the giving of relief and the establishment and maintenance of relief works in times of famine or scarcity;
- (d) for the financing of the Provincial Loan Account; and
- (e) for the repayment or consolidation of loans raised in accordance with these rules or the repayment of advances made by the Governor-General in Council.

3. (1) No loan shall be raised by a local Government without the sanction (in the case of loans to be raised in India) of the Governor-General in Council, or (in the case of loans to be raised outside India) of the Secretary of

**Sanction to Loans.**

State in Council, and in sanctioning the raising of a loan the Governor-General in Council or the Secretary of State in Council, as the case may be, may specify the amount of the issue and any or all of the conditions under which the loan shall be raised.

(2) Every application for the sanction of the Secretary of State required by this rule shall be transmitted through the Governor-General in Council.

**Priority.**

4. Every loan raised by a local Government in accordance with these rules shall be a charge on the whole of the revenues allocated to the local Government, and all payments in connection with the service of such loans shall be made in priority to all payments by the local Government other than the payments of—

- (i) the fixed provincial contribution payable to the Governor-General in Council,
- (ii) interest due on sums advanced to the local Government by the Governor-General in Council from the revenues of India, and
- (iii) interest due on all loans previously raised by the local Government.

### **The Transferred Subjects (Temporary Administration) Rules.**

**Short Title and Commencement.**

1. (1) These rules may be called the Transferred Subjects (Temporary Administration) Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

NOTE.—Under Notification No. 316-S., dated the 17th December, 1920, in the *Calcutta Gazette, Extraordinary*, dated the 3rd January, 1921, these rules were brought into force in Bengal on the 3rd January, 1921.

**Vacancy in office of minister.**

2. In case of emergency where, owing to a vacancy, there is no minister in charge of a transferred subject, the Governor—

- (1) shall, if another minister is available and willing to take charge of the subject, appoint such minister to administer the subject temporarily; or
- (2) may, if the vacancy cannot be provided for in the manner aforesaid, himself temporarily administer the subject, and, while so doing, shall

exercise, in relation to such subject, all such powers in addition to his own powers as Governor as he could exercise if he were the minister in charge thereof.

3. In any case in which the Governor himself undertakes temporarily to administer a subject under these rules, he shall certify that an emergency has arisen in which, owing to a ministerial vacancy, it is necessary for him so to do, and shall forthwith forward a copy of such certificate for the information of the Governor-General in Council.

**Certification of necessity.**

4. Such temporary administration by the Governor shall only continue until a minister has been appointed to administer the subject.

**Administration to be temporary.**

5. The Governor shall not exercise in respect of such subject the powers conferred on him by section 72E of the Government of India Act.

**Certification of legislation.**

### **The Scheduled Taxes Rules.**

1. (1) These rules may be called the Scheduled Taxes Rules.

**Short Title and Commencement.**

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

NOTE.—Under Notification No. 317-S., dated the 17th December, 1920, in the *Calcutta Gazette, Extraordinary*, dated 3rd January, 1921, these rules were brought into force in Bengal on the 3rd January, 1921.

2. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into consideration any law imposing, for the purposes of the local Government, any tax included in Schedule I to these rules.

**Taxes which may be imposed for purposes of local Government.**

3. The Legislative Council of a province may, without the previous sanction of the Governor-General, make and take into consideration any law imposing, or authorising any local authority to impose, for the purposes of such local authority, any tax included in Schedule II to these rules.

**Taxes which may be imposed for purposes of local authorities.**



**Additions to Schedules.**

4. The Governor-General in Council may at any time, by order, make any addition to the taxes enumerated in Schedules I and II to these rules.

**Saving.**

5. Nothing in these rules shall affect the right of a local authority to impose a tax without previous sanction or with the previous sanction of the local Government when such right is conferred upon it by any law for the time being in force.

**SCHEDULE I.**

1. A tax on land put to uses other than agricultural.
2. A tax on succession or on acquisition by survivorship in a joint family.
3. A tax on any form of betting or gambling permitted by law.
4. A tax on advertisements.
5. A tax on amusements.
6. A tax on any specified luxury.
7. A registration fee.
8. A stamp duty other than duties of which the amount is fixed by Indian legislation.

**SCHEDULE II.**

(In this Schedule the word "tax" includes a cess, rate, duty or fee.)

1. A toll.
2. A tax on land or land values.
3. A tax on buildings.
4. A tax on vehicles or boats.
5. A tax on animals.
6. A tax on menials and domestic servants.
7. An octroi.
8. A terminal tax on goods imported into a local area in which an octroi was levied on or before the 6th July, 1917.
9. A tax on trades, professions and callings.
10. A tax on private markets.
11. A tax imposed in return for services rendered, such as—
  - (a) a water rate;
  - (b) a lighting rate;
  - (c) a scavenging, sanitary or sewage rate;
  - (d) a drainage tax;
  - (e) fees for the use of markets and other public conveniences.

**The Local Legislatures (Previous Sanction) Rules.**

1. (1) These rules may be called the Local Legislatures (Previous Sanction) Rules.

**Short Title and Commencement.**

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

NOTE.—Under Notification No. 318-S., dated the 17th December, 1920, in the *Calcutta Gazette, Extraordinary*, dated 3rd January, 1921, these rules were brought into force in Bengal on the 3rd January, 1921.

2. A local legislature may not repeal or alter, without the previous sanction of the Governor-General,—

**Laws requiring previous sanction.**

(1) any law made by any authority in British India before the commencement of the Indian Councils Act, 1861, provided that the Governor-General in Council may, by notification in the *Gazette of India*,<sup>1</sup> declare that this provision shall not apply to any such law which he may specify, and, if he does so, previous sanction shall not thereafter be necessary to the alteration or repeal of that law; or

(2) any law specified in the Schedule to these rules or any law made by the Governor-General in Council amending a law so specified.

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Year.	No.	Short title.
1860 ..	XLV	The Indian Penal Code.
1864 ..	III	The Foreigners Act, 1864.
1865 ..	III	The Carriers Act, 1865.
" ..	X	The Indian Succession Act, 1865.
" ..	XV	The Parsi Marriage and Divorce Act, 1865.
" ..	XXI	The Parsi Intestate Succession Act, 1865.
1866 ..	XXI	The Native Converts' Marriage Dissolution Act, 1866.
" ..	XXVIII	The Trustees' and Mortgagees' Powers Act, 1866.
1867 ..	XXV	The Press and Registration of Books Act, 1867.
1869 ..	IV	The Indian Divorce Act, 1869.
1870 ..	XXI	The Hindu Wills Act, 1870.
1872 ..	I	The Indian Evidence Act, 1872.
" ..	III	The Special Marriage Act, 1872.
" ..	IX	The Indian Contract Act, 1872.
" ..	XV	The Indian Christian Marriage Act, 1872.
1873 ..	X	The Indian Oaths Act, 1873.
1874 ..	III	The Married Women's Property Act, 1874.
" ..	XIV	The Scheduled Districts Act, 1874.
" ..	XV	The Laws Local Extent Act, 1874.
1875 ..	IX	The Indian Majority Act, 1875.
1877 ..	I	The Specific Relief Act, 1877.
1881 ..	V	The Probate and Administration Act, 1881.
" ..	XIII	The Fort William Act, 1881.
" ..	XXVI	The Negotiable Instruments Act, 1881.

<sup>1</sup> For a notification issued under this rule, setting out a list of laws to which this provision will not apply, see Government of India Notification No. 1407, dated the 19th May, 1921, at page 288, post.

Year.	No.	Short title.
1882 ..	II	The Indian Trusts Act, 1882.
" ..	IV	The Transfer of Property Act, 1882.
" ..	VII	The Powers of Attorney Act, 1882.
1889 ..	IV	The Indian Merchandise Marks Act, 1889.
" ..	VII	The Succession Certificate Act, 1889.
" ..	XV	The Indian Official Secrets Act, 1889.
1890 ..	VIII	The Guardians and Wards Act, 1890.
" ..	IX	The Indian Railways Act, 1890.
1891 ..	XVIII	The Bankers' Books Evidence Act, 1891.
1895 ..	XV	The Crown Grants Act, 1895.
1897 ..	III	The Epidemic Diseases Act, 1897.
" ..	X	The General Clauses Act, 1897.
" ..	XIV	The Indian Short Titles Act, 1897.
1898 ..	V	The Code of Criminal Procedure, 1898.
" ..	IX	The Live-stock Importation Act, 1898.
1899 ..	IX	The Indian Arbitration Act, 1899.
1903 ..	XIV	The Indian Foreign Marriage Act, 1903.
" ..	XV	The Indian Extradition Act, 1903.
1908 ..	V	The Code of Civil Procedure, 1908.
" ..	IX	The Indian Limitation Act, 1908.
" ..	XIV	The Indian Criminal Law Amendment Act, 1908.
" ..	XV	The Indian Ports Act, 1908.
" ..	XVI	The Indian Registration Act, 1908.
1909 ..	III	The Presidency—towns Insolvency Act, 1909.
" ..	IV	The Whipping Act, 1909.
" ..	VII	The Anand Marriage Act, 1909.
1910 ..	I	<i>The Indian Press Act, 1910.</i> <sup>1</sup>
1911 ..	X	The Seditious Meetings Act, 1911.
1912 ..	IV	The Indian Lunacy Act, 1912.
" ..	V	The Provident Insurance Societies Act, 1912.
" ..	VI	The Indian Life Assurance Companies Act, 1912.
1913 ..	VI	The Mussalman Wakf Validating Act, 1913.
" ..	VII	The Indian Companies Act, 1913.
1914 ..	II	The Destructive Insects and Pests Act, 1914.
" ..	III	The Indian Copyright Act, 1914.
" ..	IX	The Local Authorities Loans Act, 1914.
1916 ..	XV	The Hindu Disposition of Property Act, 1916.
1917 ..	I	The Inland Steam-vessels Act, 1917.
" ..	XXVI	The Transfer of Property (Validating) Act, 1917.
1918 ..	X	The Usurious Loans Act, 1918.
1919 ..	XI	<i>The Anarchical and Revolutionary Crimes Act, 1919.</i> <sup>2</sup>
1920 ..	V	The Provincial Insolvency Act, 1920.
" ..	X	The Indian Securities Act, 1920.
" ..	XIV	The Charitable and Religious Trusts Act, 1920.

#### The Reservation of Bills Rules.

**Short Title  
and Commence-  
ment.**

1. (1) These rules may be called the Reservation of Bills Rules.

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

NOTE.—Under Notification No. 319-S., dated the 17th December, 1920, *Calcutta Gazette, Extraordinary*, dated 3rd January, 1921, these rules were brought into force in Bengal on the 3rd January, 1921.

<sup>1</sup> The Indian Press Act, 1910 (I of 1910) has been repealed by the Press Law Repeal and Amendment Act, 1922 (XIV of 1922).

<sup>2</sup> The Anarchical and Revolutionary Crimes Act, 1919 (XI of 1919) has been repealed by the Special Laws Repeal Act, 1922 (IV of 1922).

2. The Governor of any Governor's province shall reserve, for the consideration of the Governor-General, any Bill<sup>1</sup> which has been passed by the Legislative Council of the province and is presented to the Governor for his assent, if the Bill appears to the Governor to contain provisions<sup>2</sup> [in respect of which the Bill has not been previously sanctioned by the Governor-General under sub-section (3) of section 80A of the Government of India Act] —

**Bills which  
must be  
reserved.**

- (a) affecting the religion or religious rites of any class of British subjects in British India, or
- (b) regulating the constitution or functions of any University, or
- (c) having the effect of including within a transferred subject matters which have hitherto been classified as reserved subjects, or
- (d) providing for the construction or management of a light or feeder railway or tramway other than a tramway within municipal limits, or
- (e) affecting the land revenue of a province either so as to—
  - (i) prescribe a period or periods within which any temporarily-settled estate or estates may not be re-assessed to land revenue, or
  - (ii) limit the extent to which the assessment to land revenue of such an estate or estates may be made or enhanced, or
  - (iii) modify materially the general principles upon which land revenue has hitherto been assessed,

if such prescription, limitation or modification appears to the Governor to be likely seriously to affect the public revenues of the province.

3. The Governor of any Governor's province may reserve, for the consideration of the Governor-General, any Bill<sup>1</sup> which has been passed by the Legislative Council

**Bills which  
may be reserved.**

<sup>1</sup> The words "not having been previously sanctioned by the Governor-General" were deleted, vide Government of India Notification No. 142, dated the 8th December, 1921, in the *Gazette of India* of the 10th *idem*, Pt. I, p. 1631.

<sup>2</sup> The words in square brackets were inserted by *ibid.*

of the province and is presented to the Governor for his assent <sup>1</sup>[if any provisions of the Bill in respect of which it has not been previously sanctioned by the Governor-General under sub-section (3) of section 80A of the Government of India Act, appear to the Governor]—

- (a) to affect any matter wherewith he is specially charged under his Instrument of Instructions, or
- (b) to affect any central subject, or
- (c) to affect the interests of another province.

### Non-official (Definition) Rules.

Published under Notification No. 614-G., dated the 9th September, 1920, under sections 134 and 129A of the Government of India Act.

#### Short Title and Commencement.

1. (1) These rules may be called the Non-official (Definition) Rules. .

(2) They shall come into force on a date to be appointed by the Governor-General in Council, with the approval of the Secretary of State in Council, and different dates may be appointed for different parts of India.

NOTE.—These rules were brought into force on the 1st October, 1920. See *Calcutta Gazette*, dated the 22nd September 1920, Part IA, page 755.

#### Certain persons not to be treated as officials for purposes of the Government of India Act.

2. The holder of any office in the civil or military service of the Crown, if the office is one which does not involve both of the following incidents, namely, that the incumbent—

- (a) is a whole-time servant of Government, and
- (b) is remunerated either by salary or fees,

shall not be treated as an official for any of the purposes of the Government of India Act.

#### Decision of Governor-General in Council to be final.

3. If any question arises, whether any officer is or is not a whole-time servant of Government for the purposes of rule 2, the decision of the Governor-General in Council shall be final.

<sup>1</sup> The words in square brackets were substituted for the words "if the Bill appears to the Governor," vide Government of India Notification No. 142, dated the 8th December, 1921, in the *Gazette of India* of the 10th *idem*, pt. I, p. 1631.

## The Bengal Electoral Rules.

(Published under Notification No. F.-213-V., dated the 30th July, 1923 in the Gazette of India, Extraordinary, dated the 30th July, 1923, and in the Calcutta Gazette, Extraordinary, dated the 6th August, 1923.)

### Preliminary.

- Rules.**
1. (1) These rules may be called the Bengal Electoral Rules. **Short Title and Commencement.**
  - (2) They shall come into force at once.
  2. In these rules, unless there is anything repugnant in the subject or context,— **Definitions.**
    - (a) “ the Act ” means the Government of India Act;
    - (b) “ Commissioners ” means Commissioners appointed for the purpose of holding an election inquiry under these rules;
    - (c) “ corrupt practice ” means any act deemed to be a corrupt practice under the provisions of Schedule V;
    - (d) “ an election agent ” means the person appointed under these rules by a candidate as his agent for an election;
    - (e) “ Gazette ” means the *Calcutta Gazette*; and
    - (f) “ Schedule ” means a Schedule to these rules.

### PART I.—Composition of Council and Constituencies.

3. The Legislative Council of the Governor of Bengal shall consist of— **Composition of Legislative Council.**
- (1) the members of the Executive Council *ex-officio*;
  - (2) one hundred and fourteen elected members;
  - (3) such number of members nominated by the Governor as, with the addition of the members of the Executive Council, shall amount to twenty-six; of the members so nominated—
    - (a) not more than eighteen may be officials and not less than six shall be non-officials, and
    - (b) two shall be persons nominated to represent respectively the following classes or interests, namely:—
      - (i) the Indian Christian community, and
      - (ii) classes which, in the opinion of the Governor, are depressed classes, and

- (c) two shall be persons nominated to represent the labouring classes.

**Constituencies.**

4. The elected members shall be elected by the constituencies specified in Schedule I, and the number of members to be elected by each constituency shall be as stated therein against that constituency:

Provided that the local Government may by regulation divide into two or more constituencies any of the plural-member constituencies and may distribute among the new constituencies so created the seats entered in Schedule I against the constituency which has been so divided.

**PART II.—Qualifications of Elected Members.****General disqualifications for being elected.**

5. (1) A person shall not be eligible for election as a member of the Council if such person—

- (a) is not a British subject; or
- (b) is a female; or
- <sup>1</sup>(c) is a member of the Council or of any other legislative body constituted under the Act and has made the oath or affirmation as such member; or
- (d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court; or
- (e) has been adjudged by a competent court to be of unsound mind; or
- (f) is under 25 years of age; or
- (g) is an undischarged insolvent; or
- (h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part:

Provided that the local Government may direct<sup>2</sup> that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be ineligible for election by reason only of not being a British subject or British subjects:

<sup>1</sup> This clause (c) was substituted for clause (c) as issued with the rules, by Notification No. F-213-V dated the 31st August, 1923, published in the *Calcutta Gazette*, Pt. I A, p. 825.

<sup>2</sup> For directions issued under this proviso, see Notification No. 1931 A. R., dated the 6th September, 1923, reproduced below:—

1. A subject of any State in India shall not be ineligible for election as a member of the Legislative Council of the Governor of Bengal by reason only of his not being a British subject.
2. A ruler of any State in India or a subject of any such State, shall not be disqualified for registration on the electoral roll of a constituency for the election of a member of the Legislative Council of the Governor of Bengal by reason only of his not being a British subject.
3. A Subject of any State in India, shall not be disqualified for nomination to the Legislative Council of the Governor of Bengal by reason only of his not being a British subject.

Provided, further, that the disqualification mentioned in clause (d) may be removed by an order of the local Government in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for election for five years from the date of the expiration of the sentence.

(3) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule V, such person shall not be eligible for election for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by any such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If in respect of an election to any legislative body constituted under the Act a return of the election expenses of any person who has been nominated as a candidate at that election is not lodged within the time and in the manner prescribed by or under the rules made in that behalf, or if any such return is lodged which is found, either by Commissioners holding an inquiry into the election or by a Magistrate in a judicial proceeding, to be false in any material particular, neither the candidate nor his election agent shall be eligible for election for five years from the date of such election:

Provided that any disqualification mentioned in sub-rule (3) or sub-rule (4) of this rule may be removed by an order of the local Government in that behalf.

6. (1) (a) No person shall be eligible for election as a member of the Council to represent a general constituency unless his name is registered on the electoral roll of the constituency or of any other constituency in the province; and unless in the case of a non-Muhammadan, Muhammadan, European or Anglo-Indian constituency he is himself a non-Muhammadan, Muhammadan, European or Anglo-Indian, as the case may be.

**Special  
qualifications  
for election in  
case of certain  
constituencies.**

(b) No person shall be eligible for election as a member of the Council to represent a special constituency unless his



name is registered on the electoral roll of the constituency.

(2) For the purposes of these rules—

- (a) “ general constituency ” means a Non-Muham-  
madan, Muhammadan, European or Anglo-  
Indian constituency; and
- (b) “ special constituency ” means a Landholders’,  
University or Commerce and Industry consti-  
tuency.

### PART III.—The Electoral Roll.

General  
conditions of  
registration and  
disqualifications.

7. (1) Every person shall be entitled to have his name registered on the electoral roll of a constituency who has the qualifications prescribed for an elector of that constituency and who is not subject to any of the disqualifications hereinafter set out, namely:—

- (a) is not a British subject; or
- (b) is a female; or
- (c) has been adjudged by a competent court to be of  
unsound mind; or
- (d) is under 21 years of age:

Provided that the local Government may direct<sup>1</sup> that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be disqualified for registration by reason only of not being a British subject or British subjects:

Provided, further, that, if a resolution is passed by the Council after not less than one month's notice has been given of an intention to move such a resolution, recommending that the sex disqualification for registration should be removed either in respect of women generally or any class of women, the local Government shall make regulations providing that women or a class of women, as the case may be, shall not be disqualified for registration by reason only of their sex:

Provided, further, that no person shall be entitled to have his name registered on the electoral roll of more than one general constituency.

(2) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative

<sup>1</sup> For directions under this proviso, see notification reproduced at the foot of page 142, ante.

body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule V, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of five years from the date of the conviction or the report, as the case may be, or, if not on the electoral roll, shall not be so registered for a like period; and if any person is reported by any such Commissioners as guilty of any other corrupt practice, his name, if on the electoral roll, shall be removed therefrom and shall not be registered thereon for a period of three years from the date of the report or, if not on the electoral roll, shall not be so registered for a like period:

Provided that the local Government may direct that the name of any person to whom this sub rule applies shall be registered on the electoral roll

8. (1) The qualifications of an elector for a general constituency shall be such qualifications based on—

**Qualifications of electors.**

- (i) community,
- (ii) residence, and
- (iii) (a) occupation of a building, or
  - (b) payment of municipal or cantonment taxes or fees, or
  - (c) payment of cesses under the Cess Act, 1880, or
  - (d) payment of chaukidari tax or union rate under the Village Chaukidari Act, 1870, or the Bengal Village Self-Government Act, 1919, or
  - (e) payment of income-tax, or
  - (f) military service, or
  - (g) the holding of land,

as are specified in Schedule II in the case of that constituency.

(2) The qualifications of an elector for a special constituency shall be the qualifications specified in Schedule II in the case of that constituency

9. (1) An electoral roll shall be prepared for every constituency, on which shall be entered the names of all persons appearing to be entitled to be registered as electors for that constituency. It shall be published in the constituency together with a notice specifying the mode in which and the time within which any person whose name is not entered in the roll and who claims to have it inserted therein, or any

**Electoral roll.**

Bengal  
Act IX of  
1880.

Bengal  
Act VI of  
1870.

Bengal  
Act V of  
1919.

(b) a further date, not later than the seventh day after the first-mentioned date, for the scrutiny of nominations; and

(c) a further date or dates on which a poll shall, if necessary, be taken;

and the dates so appointed shall be notified in the constituency in such manner as the local Government thinks fit.

(3) On or before the date so appointed for the nomination of candidates, each candidate shall, either in person or by his proposer and seconder together, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon, deliver to the Returning Officer or to such other person as may be authorised in this behalf by regulation a nomination paper completed in the form prescribed in Schedule III and subscribed by the candidate himself as assenting to the nomination and by two persons as proposer and seconder whose names are registered on the electoral roll of the constituency.

(4) Any person whose name is registered on the electoral roll of the constituency, and who is not subject to any disability stated in rule 7, may subscribe, as proposer or seconder, as many nomination papers as there are vacancies to be filled but no more.

(5) Every nomination paper delivered under sub-rule (3) shall be accompanied by a declaration in writing subscribed by the candidate that the candidate has appointed or does thereby appoint as his election agent for the election either himself or some one other person who is not disqualified under these rules for the appointment and who shall be named in the declaration; and no candidate shall be deemed to be duly nominated unless such declaration is delivered along with the nomination paper.

(6) Any nomination paper which is not received before three o'clock in the afternoon on the date appointed by the local Government for the nomination of candidates shall be rejected.

(7) The Returning Officer or other person authorised shall, on receiving a nomination paper under sub-rule (3), inform the person or persons delivering the same of the date, hour and place appointed for the scrutiny of nominations, and shall enter in the nomination paper its serial number and shall sign thereon a certificate stating the date on which and the hour at which the nomination paper has been delivered to him; and shall, as soon as may be thereafter, cause to be

affixed in some conspicuous place in his office a notice of the nomination containing descriptions, similar to those contained in the nomination paper, both of the candidate and of the persons who have subscribed the nomination paper as proposer and seconder.

(8) Any candidate may withdraw his candidature by notice in writing subscribed by him and delivered to the Returning Officer or other person authorised on or before three o'clock in the afternoon on the date succeeding that appointed by the local Government for the scrutiny of nominations. A candidate who has withdrawn his candidature shall not be allowed to cancel the withdrawal or to be re-nominated as a candidate for the same election.

(9) The Returning Officer or other person authorised shall, on receiving a notice of withdrawal under sub-rule (8), as soon as may be, cause a notice of the withdrawal to be affixed in some conspicuous place in his office.

12. (1) On or before the date appointed for the nomination of candidates, each candidate shall deposit or cause to be deposited with the Returning Officer the sum of two hundred and fifty rupees in cash or in Government Promissory Notes of equal value at the market rate of the day; and no candidate shall be deemed to be duly nominated unless such deposit has been made.

**Deposit on nomination.**

(2) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made withdraws his candidature in the manner and within the time specified in sub-rule (8) of rule 11, or if the nomination of any such candidate is refused, the deposit shall be returned to the person by whom it was made; and, if any candidate dies before the commencement of the poll, any such deposit, if made by him, shall be returned to his legal representative or, if not made by the candidate, shall be returned to the persons by whom it was made.

(3) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is not elected and the number of votes polled by him does not exceed one-eighth of the total number of votes polled, the deposit shall be forfeited to the Government.

(4) For the purpose of sub-rule (3), the number of votes polled shall be deemed to be the number of ballot papers, other than spoilt ballot papers, counted; and, where the election is held according to the system of proportional representation by means of the single transferable vote, the number of votes polled by a candidate shall be the number of votes polled by him as first preferences.

(5) If a candidate by whom or on whose behalf the deposit referred to in sub-rule (1) has been made is elected and thereafter his seat is declared vacant under these rules owing to his failure to make the oath or affirmation hereinafter prescribed, the deposit shall be forfeited to the Government.

(6) The deposit made in respect of a candidate who is not elected shall, if it is not forfeited under sub-rule (3), be returned to the candidate or to the person who has made the deposit on his behalf, as the case may be, as soon as may be after the publication of the result of the election in the Gazette; and the deposit made in respect of a candidate who is elected shall, if it is not forfeited under sub-rule (5), be so returned as soon as may be after the candidate has made the oath or affirmation hereinafter prescribed:

Provided that, if a candidate is duly nominated at a general election in more than one constituency, not more than one of the deposits made by him or on his behalf shall be returned, and the remainder shall be forfeited to the Government.

**Death of  
candidate  
before poll.**

**13.** If a candidate who has been duly nominated dies after the date appointed for the scrutiny of nominations and before the date appointed for the taking of a poll, the Returning Officer or other authorised person referred to in sub-rule (3) of rule 11 shall, upon being satisfied of the fact of the death of the candidate, countermand the poll and report the fact to the local Government, and all proceedings with reference to the election shall be commenced anew in all respects as if for a new election:

Provided that no fresh nomination shall be necessary in the case of a candidate who stood nominated at the time of the countermanding of the poll.

**Procedure at  
election.**

**14.** (1) If the number of candidates who are duly nominated and who have not withdrawn their candidature in the manner and within the time specified in sub-rule (8) of rule 11 exceeds that of the vacancies, a poll shall be taken.

(2) If the number of such candidates is equal to the number of vacancies, all such candidates shall be declared to be duly elected.

(3) If the number of such candidates is less than the number of vacancies, all such candidates, if any, shall be declared to be elected, and the Governor shall, by a notification in the Gazette, call upon the constituency to elect a person or persons, as the case may be, within such time as may be prescribed by the notification:

Provided that where the constituency, having already been called upon under this sub-rule, has failed to elect a person or the requisite number of persons, as the case may be, to fill the vacancy or vacancies, the Governor shall not be bound to call again upon the constituency to elect a person or persons until such time, if any, as he thinks fit.

(4) Votes shall be given by ballot, and in general constituencies in person:

Provided that the local Government may—

- (a) in the case of any specified general constituency or of any specified part of any general constituency, or
- (b) in respect of any person attending at a polling station in any constituency under the orders of, or under authority from, the Returning Officer of such constituency,

by regulation direct that votes may be given otherwise than in person:

Provided, further, that no votes shall be received by proxy.

(5) In plural-member constituencies every elector shall have as many votes as there are members to be elected, but no elector shall give more than one vote to any one candidate:

Provided that in the Presidency and Burdwan (European) constituency the election shall be made according to the principle of proportional representation by means of the single transferable vote, and votes shall be given in accordance with regulations made in that behalf by the local Government.

(6) Votes shall be counted by, or under the supervision of, the Returning Officer, and each candidate, the election agent of each candidate, and one representative of each candidate authorised in writing by the candidate shall have a right to be present at the time of counting.

(7) When the counting of the votes has been completed, the Returning Officer shall forthwith declare the candidate or candidates, as the case may be, to whom the largest number of votes has been given, to be elected:

Provided that in the Presidency and Burdwan (European) constituency the Returning Officer shall determine the candidates to whom the largest number of votes has been given in accordance with the regulations made in that behalf.

(8) Where an equality of votes is found to exist between any candidates and the addition of one vote will entitle

any of the candidates to be declared elected, the determination of the person or persons to whom such one additional vote shall be deemed to have been given shall be made by lot to be drawn in the presence of the Returning Officer and in such manner as he may determine.

(9) The Returning Officer shall without delay report the result of the election to the Secretary to the Council, and the names or names of the candidate or candidates elected shall be published in the Gazette.

15. (1) Subject to the provisions of these rules, the local Government shall make regulations providing—

- (1) for the scrutiny of nominations and, in particular, for the manner in which such scrutiny shall be conducted and for the conditions and circumstances in which any person may be present or may enter objections thereat;
- (2) for the appointment in each constituency of a Returning Officer and for his powers and duties, and for the performance by other persons of any power or duty of the Returning Officer.
- (3) in the case of general constituencies, for the division of the constituencies into polling areas in such manner as to give all electors such reasonable facilities for voting as are practicable in the circumstances, and for the appointment of polling stations for these areas;
- (4) for the appointment of officers to preside at polling stations, and for the duties of such officers;
- (5) for the checking of voters by reference to the electoral roll;
- (6) for the manner in which votes are to be given, and in particular for the case of illiterate voters or voters under physical or other disability;
- (7) for the procedure to be followed in respect of tender of votes by persons representing themselves to be electors after other persons have voted as such electors;
- (8) for the scrutiny of votes;
- (9) for the safe custody of ballot papers and other election papers, for the period for which such papers shall be preserved, and for the inspection and production of such papers;

and may make such other regulations regarding the conduct of elections as it thinks fit.

**Government  
to make  
regulations  
regarding  
the conduct  
of election.**

(2) Notwithstanding anything in these rules, if a resolution in favour of the introduction of proportional representation is passed by the Council after not less than one month's notice has been given of an intention to move such a resolution, the local Government may for any plural-member constituencies introduce the method of election by means of the single transferable vote and may make all necessary regulations for that purpose and to that end may group together single-member constituencies so as to make new plural-member constituencies.

(3) In the exercise of the powers conferred by this rule regulations may be made as to elections generally or any class of elections or in regard to constituencies generally or any class of constituency or any particular constituency.

**16.** (1) If any person is elected by a constituency of the Council and by a constituency of either chamber of the Indian legislature, the election of such person to the Council shall be void and the Governor shall call upon the constituency concerned to elect another person.

**Multiple elections.**

(2) If any person is elected either by more than one constituency of the Council or by a constituency of the Council and a constituency of the Legislative Council of another province, he shall, by notice in writing signed by him and delivered to the Secretary to the Council or the Secretaries to both Councils, as the case may be, within seven days from the date of the publication of the result of such election in the local official Gazette, choose for which of these constituencies he shall serve, and the choice shall be conclusive.

(3) When any such choice has been made, the Governor shall call upon the constituency or constituencies for which such person has not chosen to serve to elect another person or persons.

(4) If the candidate does not make the choice referred to in sub-rule (2) of this rule, the elections of such person shall be void and the Governor shall call upon the constituency or constituencies concerned to elect another person or persons.

#### **Election Agents and Return of Expenses.**

**17.** No person shall be appointed an election agent who is himself ineligible for election as being subject to any disqualification mentioned in sub-rule (3) or sub-rule (4) of rule 5.

**Disqualification for being election agent.**



**Revocation of  
appointment  
of election agent.**

18. (1) The appointment of an election agent, whether the election agent appointed be the candidate himself or not, may only be revoked in writing signed by the candidate and lodged with the officer receiving nominations and shall operate from the date on which it is so lodged.

(2) In the event of such a revocation or of the death of any election agent, whether such event occurs before, during or after the election, then the candidate shall appoint forthwith another election agent and declare his name in writing to the said officer.

**Return of  
election expenses.**

19. (1) Within thirty-five days from the date of the publication of the result of an election under sub-rule (9) of rule 14, there shall be lodged with the Returning Officer in respect of each person who has been nominated as a candidate for the election a return, in such form as the local Government may by regulation prescribe, of the election expenses of such person containing the particulars specified in Schedule IV and signed both by the candidate and by his election agent.

(2) Every such return shall contain a statement of all payments made by the candidate or by his election agent or by any persons on behalf of the candidate or in his interests for expenses incurred on account of, or in respect of, the conduct and management of the election, and further a statement of all unpaid claims in respect of such expenses of which he or his election agent is aware.

(3) The return shall be accompanied by declarations by the candidate and his election agent which shall be in the form contained in Schedule IV and shall be made on oath or affirmation before a Magistrate.

(4) Notwithstanding anything hereinbefore contained, where a candidate is, owing to absence from India, unable to sign the return of election expenses and to make the declaration within the period prescribed in this rule, the return shall be signed and lodged by the election agent only and shall be accompanied by a declaration by the election agent under sub-rule (3), and within fourteen days after the return of the candidate to India he shall cause to be lodged with the Returning Officer a declaration made on oath or affirmation before a Magistrate in the special form for the purpose contained in the said Schedule.

(5) When any return and the declarations made in respect thereof have been lodged with the Returning Officer, the Returning Officer shall, as soon as may be, cause a notice of the date on which the return and declarations in question have been lodged, and of the time and place at

which they can be inspected, to be fixed in some conspicuous place in his office and to be published in the Gazette, and any person shall, on payment of a fee of one rupee, be entitled to inspect any such return or declaration and, on payment of such fee as the local Government may by regulation prescribe, to obtain a copy or copies thereof or of any part thereof.

(6) The local Government shall cause to be prepared in such manner, and maintained for such time, as it may direct, a record showing the names of all candidates at every election under these rules and the name of the election agent of each such candidate and the date on which the return of election expenses of each candidate has been lodged with the Returning Officer.

**20.** (1) The Governor-General in Council may, by notification in the Gazette,—

**Power to fix maximum scale of expenditure and to regulate employment for pay.**

- (a) fix maximum scales of election expenses, which shall be applicable to any election held after the first election under these rules; and
- (b) prescribe the numbers and descriptions of persons who may be employed for payment in connection with any election held under these rules.

(2) Any notification issued under this rule may make different provisions for different constituencies.

**21.** Every election agent shall, for each election for which he is appointed an election agent, keep separate and regular books of account in which the particulars of all expenditure of the nature referred to in rule 19 shall be entered, whether such expenditure is incurred by the candidate or by the election agent or by any person under the direction of the candidate or the election agent.

**Accounts of agents.**

## **PART V.—Nominated Members.**

**22.** (1) No person shall be nominated to the Council who—

**General dis-qualifications for nomination.**

- (a) is not a British subject; or
- (b) is a female; or
- <sup>1</sup>(c) is a member of the Council or of any other legislative body constituted under the Act and has made the oath or affirmation as such member; or

<sup>1</sup>This clause (c) was substituted for clause (c) as issued with the rules, by notification No. F. 213-V, dated the 31st August, 1923, published in the *Calcutta Gazette*, Pt. I.A., p. 325.

- (d) having been a legal practitioner has been dismissed or is under suspension from practising as such by order of any competent court; or
- (e) has been adjudged by a competent court to be of unsound mind; or
- (f) is under 25 years of age; or
- (g) is an undischarged insolvent; or
- (h) being a discharged insolvent has not obtained from the court a certificate that his insolvency was caused by misfortune without any misconduct on his part:

Provided that the local Government may direct<sup>1</sup> that, subject to such conditions as it may prescribe, a Ruler of any State in India or the Rulers of any such States or a subject of any such State or any class of such subjects shall not be disqualified for nomination by reason only of not being a British subject or British subjects:

Provided, further, that the disqualification mentioned in clause (d) may be removed by an order of the local Government in this behalf.

(2) A person against whom a conviction by a criminal court involving a sentence of transportation or imprisonment for a period of more than six months is subsisting shall, unless the offence of which he was convicted has been pardoned, not be eligible for nomination for five years from the date of the expiration of the sentence.

(3) If any person is convicted of an offence under Chapter IX-A of the Indian Penal Code punishable with imprisonment for a term exceeding six months or is, after an inquiry by Commissioners appointed under any rules for the time being in force regarding elections to a legislative body constituted under the Act, reported as guilty of a corrupt practice as specified in Part I, or in paragraph 1, 2 or 3 of Part II, of Schedule V, such person shall not be eligible for nomination for five years from the date of such conviction or of the finding of the Commissioners, as the case may be; and a person reported by any such Commissioners to be guilty of any other corrupt practice shall be similarly disqualified for three years from such date.

(4) If in respect of an election to any legislative body constituted under this Act a return of the election expenses of any person who has been nominated as a candidate at the election is not lodged within the time and in the manner prescribed by or under the rules made in that behalf, or

<sup>1</sup> For directions under the proviso, see notification reproduced at the foot of page 142, ante.

if any such return is lodged which is found either by Commissioners holding an inquiry into the election or by a Magistrate in a judicial proceeding, to be false in any material particular, neither the candidate nor his election agent shall be eligible for nomination for five years from the date of the election:

Provided that any disqualification mentioned in sub-rule (3) or sub-rule (4) of this rule may be removed by an order of the local Government in that behalf.

**23.** (1) A nominated non-official member shall hold office for the duration of the Council to which he is nominated. **Term of office of nominated member.**

(2) Official members shall hold office for the duration of the Council to which they are nominated or for such shorter period as the Governor may, at the time of nomination, determine.

## PART VI.—General Provisions.

### Obligation to take Oath.

**24.** Every person who is elected or nominated to be a member of the Council shall, before taking his seat, make, at a meeting of the Council, an oath or affirmation of his allegiance to the Crown in the following form, namely:— **Taking of oath**

I, A. B., having been  $\frac{\text{elected}}{\text{non-nominated}}$  a member of this Council do solemnly swear (*or* affirm) that I will be faithful and bear true allegiance to His Majesty the King Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter.

### Vacation of Seat.

**25.** If any person having been elected or nominated subsequently becomes subject to any of the disabilities stated in clauses (a), (c), (d), (e), (g) and (h) of sub-rule (1) or in sub-rules (2), (3) and (4) of rule 5 or of rule 22, as the case may be, or fails to make the oath or affirmation prescribed by rule 24 within such time as the Governor considers reasonable, the Governor shall, if the disqualification has not been removed under these rules by notification in the Gazette, declare his seat to be vacant. **Effect of subsequent disabilities or failure to take oath.**

**26.** (1) When a vacancy occurs in the case of an elected member by reason of his election being declared void, or his seat being declared vacant, or by reason of absence from India, inability to attend to duty, death, acceptance **Casual vacancies.**

of office or resignation duly accepted, the Governor shall, by notification in the Gazette, call upon the constituency concerned to elect a person for the purpose of filling the vacancy within such time as may be prescribed by such notification.

(2) If a vacancy occurs in the case of a nominated member, the Governor shall nominate to the vacancy a person having the necessary qualification under these rules.

#### General Elections.

##### Reconstitution of Council.

27. (1) On the expiration of the duration of a Council or on its dissolution a general election shall be held in order that a new Council may be constituted.

(2) On such expiration or dissolution, the Governor shall, by notification in the Gazette, call upon the constituencies referred to in rule 4 to elect members in accordance with these rules within such time after the date of expiration or dissolution as may be prescribed by such notification:

Provided that, if the Governor thinks fit, such notification may be issued at any time not being more than three months prior to the date on which the duration of the Council would expire in the ordinary course of events.

(3) Before the date fixed for the first meeting of the Council the Governor shall make such nominations as may be necessary to complete the Council.

##### Publication of result of general election.

28. As soon as may be after the expiration of the time fixed for the election of members at any general election, the names of the members elected for the various constituencies at such election shall be notified in the Gazette.

##### Powers of Local Government in case of difficulty.

29. If any difficulty arises as to the preparation or publication of any electoral roll or of any list of amendments to any such roll or as to the holding of any election under these rules, the local Government may by order do anything not inconsistent with these rules which appears to it to be necessary for the proper preparation or publication of the roll or for the proper holding of the election.

### PART VII.—The Final Decision of Doubts and Disputes as to the Validity of an Election.

##### Definitions.

30. In this Part and in Schedule V, unless there is anything repugnant in the subject or context,—

(a) “agent” includes an election agent and any person who is held by Commissioners to have

- acted as an agent in connection with an election with the knowledge or consent of the candidates;
- (b) “ candidate ” means a person who has been nominated as a candidate at any election or who claims that he has been so nominated or that his nomination has been improperly refused, and includes a person who, when an election is in contemplation, holds himself out as a prospective candidate at such election, provided that he is subsequently nominated as a candidate at such election;
  - (c) “ electoral right ” means the right of a person to stand or not to stand as, or to withdraw from being, a candidate, or to vote or refrain from voting at an election; and
  - (d) “ returned candidate ” means a candidate whose name has been published under these rules as duly elected.

**31.** No election shall be called in question except by an election petition presented in accordance with the provisions of this Part. **The election petition.**

**32. (1)** An election petition against any returned candidate may be presented to the Governor— **Presentation of the petition.**

- (a) by any candidate or elector within fourteen days from the date on which the return of the election expenses of the returned candidate and the declarations, referred to in rule 19, are received by the Returning Officer; or
- (b) within 30 days from that date by an officer empowered by the local Government in this behalf on the ground that the election has not been a free election by reason of the large number of cases in which undue influence or bribery has been exercised or committed; or
- (c) on the ground that the returned candidate or his election agent or any other person acting with the connivance of the candidate or of his election agent has been guilty of the offence of bribery, undue influence or personation as defined in Chapter IX-A of the Indian Penal Code in respect of the election, by any candidate or elector within fourteen days from the date on which such returned candidate, election agent or other person is convicted of such offence.

(2) An election petition shall be deemed to have been presented to the Governor when it is delivered to the Governor or to any officer appointed by him in this behalf—

- (a) by the person making the petition; or
- (b) by a person authorised in writing in this behalf by the person making the petition; or
- (c) by registered post.

(3) When the last day of the period for the presentation of an election petition under this rule is a public holiday within the meaning of section 25 of the Negotiable Instruments Act, 1881, or has been notified by the local Government as a day to be observed as a holiday in Government offices, the petition shall be considered as having been received in due time if it is presented on the next succeeding day which is neither such a public holiday nor a day so notified. XXVI of 1881.

(4) For the purposes of clause (a) of sub-rule (1), the date on which the return of the election expenses and the declarations referred to in rule 19 are received by the Returning Officer shall, in the case of a candidate who has made such return and declaration in the manner provided in sub-rule (4) of that rule, be deemed to be the date on which the declaration of the candidate under that sub-rule is received.

**Contents of  
the petition.**

**33.** (1) The petition shall contain a statement in concise form of the material facts on which the petitioner relies and shall, where necessary, be divided into paragraphs numbered consecutively. It shall be signed by the petitioner and verified in the manner prescribed for the verification of pleadings in the Code of Civil Procedure, 1908. Act V of 1908.

(2) The petition shall be accompanied by a list signed and verified in like manner setting forth full particulars of any corrupt practice which the petitioner alleges, including as full a statement as possible as to the names of the parties alleged to have committed any corrupt practice and the date and place of the commission of each such practice.

(3) The Commissioners may, upon such terms as to costs and otherwise as they may direct at any time, allow the particulars included in the said list to be amended or order such further and better particulars in regard to any matter referred to therein to be furnished as may in their opinion be necessary for the purpose of ensuring a fair and effectual trial of the petition.

**34.** The petitioner may, if he so desires, in addition to calling in question the election of the returned candidate, claim a declaration that he himself or any other candidate has been duly elected; in which case he shall join as respondents to his petition all other candidates who were nominated at the election.

**Against whom  
it may be  
presented.**

**35.** At the time of presentation of the petition, the petitioner shall, except where the petition is presented under clause (b) of sub-rule (1) of rule 32, deposit with it the sum of one thousand rupees in cash or in Government Promissory Notes of equal value at the market rate of the day as security for the costs of the same.

**Deposit of  
security.**

**36.** (1) If the provisions of rule 32, rule 33 or rule 35 are not complied with, the Governor shall dismiss the petition.

**Dismissal  
for default.**

(2) If the petition is not dismissed under sub-rule (1)—

**Appointment of  
commissioners.**

(a) the Governor shall appoint as Commissioners for the trial of the petition three persons who are or have been, or are eligible to be appointed, Judges of a High Court within the meaning of section 101 (3) of the Act, and shall appoint one of them to be the President, and thereafter all applications and proceedings in connection therewith shall be dealt with and held by such Commissioners;

(b) the President of the Commission shall, as soon as may be, cause a copy of the petition to be served on each respondent and to be published in the Gazette, and may call on the petitioner to execute a bond in such amount and with such sureties as he may require for the payment of any further costs. At any time within fourteen days after such publication, any other candidate shall be entitled to be joined as a respondent on giving security in a like amount and procuring the execution of a like bond:

Provided that the execution of such a bond by the petitioner shall not be required in any case where the petition has been presented under clause (b) of sub-rule (1) of rule 32.

(3) When in respect of an election in a constituency more petitions than one are presented, the Governor shall refer all such petitions to the same Commissioners, who



may at their discretion inquire into the petitions either in one or in more proceedings as they shall think fit.

(4) If the services of any Commissioner are not available for the purposes of the inquiry, or if, during the course of the inquiry, any Commissioner is unable to continue to attend the same, the Governor shall appoint another Commissioner and the inquiry shall recommence before the Commission as so reconstituted:

Provided that the Commissioners may direct that any evidence already recorded may remain upon the record, in which case it shall not be necessary to re-examine those witnesses who have already been examined and discharged.

(5) Nothing in this rule shall be deemed to prevent the appointment of the President of a Commission before the other Commissioners are appointed and, if the President is so appointed, all references to the Commissioners in these rules shall, in respect of any matter which may be or is to be done before the commencement of the inquiry, be deemed to be references to the President.

**Inquiry by  
Commissioners.**

**37.** Subject to the other provisions of these rules every election petition shall be inquired into by the Commissioners, as nearly as may be, in accordance with the procedure applicable under the Code of Civil Procedure, 1908, to the trial of suits:

Provided that it shall only be necessary for the Commissioners to make a memorandum of the substance of the evidence of any witness examined by them.

**Place of inquiry.**

**38.** The inquiry shall be held at such place as the Governor may appoint:

Provided that the Commissioners may in their discretion sit at any other place in the presidency for any part of the inquiry, and may depute any one of their number to take evidence at any place in the presidency.

**Withdrawal  
of petition.**

**39.** (1) An election petition may be withdrawn only by leave of the Commissioners or, if an application for withdrawal is made before any Commissioner has been appointed, of the Governor.

(2) If there are more petitioners than one, no application to withdraw a petition shall be made, except with the consent of all the petitioners.

(3) When an application for withdrawal is made to the Commissioners notice thereof fixing a date for the hearing of the application shall be given to all other parties to the petition and shall be published in the Gazette.

(4) No application for withdrawal shall be granted if, in the opinion of the Governor or of the Commissioners, as the case may be, such application has been induced by any bargain or consideration which ought not to be allowed.

(5) If the application is granted—

- (a) the petitioner shall, where the application has been made to the Commissioners, be ordered to pay the costs of the respondent theretofore incurred or such portion thereof as the Commissioners may think fit;
- (b) notice of the withdrawal shall be published in the Gazette by the Governor or by the Commissioners, as the case may be; and
- (c) any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner in place of the party withdrawing, and, upon compliance with the conditions of rule 35 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

40. (1) An election petition shall abate only on the death of a sole petitioner or of the survivor of several petitioners:

**Abatement or substitution on death of petitioner.**

Provided that, where such sole petitioner was an officer empowered under clause (b) of sub-rule (1) of rule 32 the proceedings may be continued by any other officer empowered in this behalf by the local Government.

(2) Notice of the abatement of an election petition shall be published in the Gazette by the Commissioners or, if the petition abates before any Commissioner has been appointed, by the Governor.

(3) Any person who might himself have been a petitioner may, within fourteen days of such publication, apply to be substituted as petitioner, and, upon compliance with the conditions of rule 35 as to security, shall be entitled to be so substituted and to continue the proceedings upon such terms as the Commissioners may think fit.

41. If before the conclusion of the trial of an election petition the respondent dies or gives notice that he does not intend to oppose the petition, the Commissioners shall cause notice of such event to be published in the Gazette, and thereupon any person who might have been a petitioner may, within fourteen days of such publication, apply to

**Abatement or substitution on death of respondent.**

be substituted for such respondent to oppose the petition, and shall be entitled to continue the proceedings upon such terms as the Commissioners may think fit.

**Recrimination  
when seat  
claimed.**

**42.** (1) Where at an inquiry into an election petition any candidate, other than the returned candidate, claims the seat for himself, the returned candidate or any other party may give evidence to prove that the election of such candidate would have been void if he had been the returned candidate and a petition had been presented complaining of his election:

Provided that the returned candidate or such other party as aforesaid shall not be entitled to give such evidence unless he has, within fourteen days from the date of the publication of the election petition under clause (b) of sub-rule (2) of rule 36, given notice of his intention to the Commissioners and made the deposit and procured the execution of the bond referred to in rules 35 and 36, respectively.

(2) Every notice referred to in sub-rule (1) shall be accompanied by the statement and list of particulars required by rule 33 in the case of an election petition and shall be signed and verified in like manner.

**Attendance of  
Laws officers.**

**43.** When at an inquiry into an election petition the Commissioners so order, the Advocate-General or some person acting under his instructions shall attend and take such part therein as they may direct.

**Grounds for  
declaring  
election void.**

**44.** (1) Save as hereinafter provided in this rule, if in the opinion of the Commissioners—

- (a) the election of a returned candidate has been procured or induced, or the result of the election has been materially affected, by a corrupt practice, or
- (b) any corrupt practice specified in Part I of Schedule V has been committed, or
- (c) the result of the election has been materially affected by the improper acceptance or refusal of any nomination or by the improper reception or refusal of a vote, or the reception of any vote which is void or by any non-compliance with the provisions of the Act or the rules or regulations made thereunder, or by any mistake in the use of any form annexed thereto, or
- (d) the election has not been a free election by reason of the large number of cases in which undue

influence or bribery, within the meaning either of Part I or Part II of Schedule V—has been exercised or committed,

the election of the returned candidate shall be void.

(2) If the Commissioners report that a returned candidate has been guilty by an agent (other than his election agent) of any corrupt practice specified in Part I of Schedule V which does not amount to any form of bribery other than treating as hereinafter explained or to the procuring or abetment of personation, and if the Commissioners further report that the candidate has satisfied them that—

- (a) no corrupt practice was committed at such election by the candidate or his election agent, and the corrupt practices mentioned in the report were committed contrary to the orders and without the sanction or connivance of such candidate or his election agent; and
- (b) such candidate and his election agent took all reasonable means for preventing the commission of corrupt practices at such election; and
- (c) the corrupt practices mentioned in the said report were of a trivial, unimportant and limited character; and
- (d) in all other respects the election was free from any corrupt practice on the part of such candidate or any of his agents;

then the Commissioners may find that the election of such candidate is not void.

*Explanation.*—For the purpose of this sub-rule “treating” means the incurring in whole or in part by any person of the expense of giving or providing any food, drink, entertainment or provision to any person with the object directly or indirectly, of inducing him or any other person to vote or refrain from voting or as a reward for having voted or refrained from voting.

**45.** (1) At the conclusion of the inquiry, the Commissioners shall report whether the returned candidate or any other party to the petition who has under the provisions of these rules claimed the seat has been duly elected, and in so reporting shall have regard to the provisions of rule 44.

**Report of  
Commissioners  
and procedure  
thereon.**

(2) The report shall further include a recommendation by the Commissioners as to the total amount of costs which are payable and the persons by and to whom such costs should be paid. Such recommendations may include a recommendation for the payment of costs to the Advocate-General or a person acting under his instructions, attending in pursuance of an order made under rule 43.

(2) The report shall be in writing and shall be signed by all the Commissioners. The Commissioners shall forthwith forward their report to the Governor who, on receipt thereof, shall issue orders in accordance with the report and publish the report in the Gazette, and the orders of the Governor shall be final.

**Form of report.**

**46.** If either in their report or upon any other matter there is a difference of opinion among the Commissioners, the opinion of the majority shall prevail, and their report shall be expressed in the terms of the views of the majority.

**Findings as to corrupt practices and persons guilty thereof.**

**47.** Where any charge is made in an election petition of any corrupt practice, the Commissioners shall record in their report—

- (a) a finding whether a corrupt practice has or has not been proved to have been committed by any candidate or his agent, or with the connivance of any candidate or his agent, and the nature of such corrupt practice, and
- (b) the names of all persons (if any) who have been proved at the inquiry to have been guilty of any corrupt practice and the nature of such corrupt practice with any such recommendations as they may desire to make for the exemption of any such persons from any disqualifications they may have incurred in this connection under these rules:

Provided that no person shall be so named in the report unless he has been given a reasonable opportunity of showing cause why his name should not be so recorded.

### **PART VIII.—Special Provision.**

**Interpretation in case of doubt.**

**48.** If any question arises as to the interpretation of these rules otherwise than in connection with an election inquiry held thereunder, the question shall be referred for the decision of the Governor, and his decision shall be final.

**SCHEDULE I.***(See rule 4.)***LIST OF CONSTITUENCIES.**

Name of Constituency.	Class of Constituency.	Extent of Constituency.	Number of Members.
Calcutta North (Non-Muhammadan).	Non-Muhammadan Urban.	The Shampukur, Kumartoli, and Bartola wards of Calcutta.	1
Calcutta North-West (Non-Muhammadan).	Ditto ..	The Jora Bagan and Baru Bazar wards of Calcutta	1
Calcutta East (Non-Muhammadan).	Ditto ..	The Sukea's Street, Jora-sanko, and Collootola wards of Calcutta.	1
Calcutta North Central (Non-Muhammadan).	Ditto ..	The Muchipara, Bow Bazar, Paddopukar, and Waterloo Street wards of Calcutta.	1
Calcutta South Central (Non-Muhammadan).	Ditto ..	The Fenwick Bazar, Taltola, Kalinga, Park Street, Baman Bustee, Entally and Baniapukur wards of Calcutta.	1
Calcutta South (Non-Muhammadan).	Ditto ..	The Hastings, Ballyganj and Tollyganj, Bhowanipur, Alipur, Ekbalpur and Watganj wards of Calcutta.	1
Hooghly Municipal (Non-Muhammadan).	Ditto ..	The municipalities of the Hooghly District.	1
Howrah Municipal (Non-Muhammadan).	Ditto ..	The municipalities of the Howrah District.	1
24-Parganas Municipal North (Non-Muhammadan).	Ditto ..	The municipalities and cantonments of the Barrackpore Sub-Division of the 24-Parganas District and the Cossipore-Chitpur municipality.	1
24-Parganas Municipal South (Non-Muhammadan).	Ditto ..	The municipalities of the Sadar, Baraset and Basirhat Sub-Divisions of the 24-Parganas District excluding the municipality of Cossipore-Chitpur.	1
Dacca City (Non-Muhammadan)	Ditto ..	The municipality of Dacca	1
Burdwan (Non-Muhammadan)	Non-Muhammadan Rural.	The Burdwan District ..	2

Name of Constituency.	Class of Constituency.	Extent of Constituency.	Number of Members.
Birbhum (Non-Muhammadan)	Non-Muhammadan Rural.	The Birbhum District ..	1
Bankura West (Non-Muhammadan).	Ditto ..	The Sadar Sub-Division of the Bankura District.	1
Bankura East (Non-Muhammadan).	Ditto ..	The Vishnupur Sub-Division of the Bankura District.	1
Midnapore North (Non-Muhammadan).	Ditto ..	The Ghatal, Sadar and Jhargram Sub-Divisions of the Midnapore District.	1
Midnapore South (Non-Muhammadan).	Ditto ..	The Contai and Tamluk Sub-Divisions of the Midnapore District.	2
Hooghly <i>cum</i> Howrah Rural (Non-Muhammadan).	Ditto ..	The Hooghly and Howrah Districts excluding municipal areas.	2
24-Parganas Rural Central (Non-Muhammadan).	Ditto ..	The Sadar Sub-Division of the 24-Parganas District (excluding municipal and cantonment areas).	1
24-Parganas Rural South (Non-Muhammadan).	Ditto ..	The Diamond Harbour Sub-Division of the 24-Parganas District.	1
24-Parganas Rural North (Non-Muhammadan).	Ditto ..	The Baraset, Basirhat and Barrackpore Sub-Divisions of the 24-Parganas District (excluding municipal and cantonment areas).	1
Nadia (Non-Muhammadan) ..	Ditto ..	The Nadia District ..	1
Murshidabad (Non-Muhammadan.)	Ditto ..	The Murshidabad District	1
Jessore South (Non-Muhammadan.)	Ditto ..	The Sadar and Narail sub-Divisions of the Jessore District.	1
Jessore North (Non-Muhammadan).	Ditto ..	The Magura, Jhenida and Bongaon Sub-Divisions of the Jessore District.	1
Khulna (Non-Muhammadan) ..	Ditto ..	The Khulna District ..	1
Dacca Rural (Non-Muhammadan.)	Ditto ..	The Dacca District (excluding the municipality of Dacca).	1

Name of Constituency.	Class of Constituency.	Extent of Constituency.	Number of Members.
Mymensingh West (Non-Muhammadan).	Non-Muhammadan Rural.	The Jamalpur and Tangail Sub-Divisions of the Mymensingh District.	1
Mymensingh East (Non-Muhammadan).	Ditto ..	The Sadar, Kishoreganj and Netrakona Sub-Divisions of the Mymensingh District.	1
Faridpur North (Non-Muhammadan).	Ditto ..	The Sadar and Goalundo Sub-Divisions of the Faridpur District.	1
Faridpur South (Non-Muhammadan).	Ditto ..	The Madaripur and Gopalganj Sub-Divisions of the Faridpur District.	1
Bakarganj North (Non-Muhammadan).	Ditto ..	The Northern Sadar, Southern Sadar, and Bhola Sub-Divisions of the Bakarganj District.	1
Bakarganj South (Non-Muhammadan).	Ditto ..	The Patuakhali and Pirojpur Sub-Divisions of the Bakarganj District.	1
Chitttgong (Non-Muhammadan)	Ditto ..	The Chittagong District.	1
Tippera (Non-Muhammadan)	Ditto ..	The Tippera District.	1
Noakhali (Non-Muhammadan)	Ditto ..	The Noakhali District.	1
Rajshahi (Non-Muhammadan)	Ditto ..	The Rajshahi District ..	1
Dinajpur (Non-Muhammadan)	Ditto ..	The Dinajpur District ..	1
Rangpur (Non-Muhammadan)	Ditto ..	The Rangpur District ..	2
Bogra cum Pabna (Non-Muhammadan).	Ditto ..	The Bogra and Pabna Districts.	1
Malda (Non-Muhammadan)	Ditto ..	The Malda District. ..	1
Jalpaiguri (Non-Muhammadan)	Ditto ..	The Jalpaiguri District ..	1



Name of Constituency.	Class of Constituency.	Extent of Constituency.	Number of Members.
Calcutta North (Muham- madan).	Muhammadan Urban.	The Shampukur, Kumartoli Bartola, Sukea's Street, Jora Bagan, Jorasanko, Bara Bazar, Collootola, Muchipara, Bow Bazar, Paddopukur, and Waterloo Street wards of Calcutta.	1
Calcutta South (Muhammadan).	Ditto ..	The Fenwick Bazar, Taltola, Kalinga, Park Street, Baman Bustee, Hastings, Entally, Bania- pukur, Ballyganj and Tollyganj, Bhowanipur, Alipur, Ekbalpur, and Watganj wards of Calcutta.	1
Hooghly cum Howrah Muni- cipal (Muhammadan).	Ditto ..	The municipalities of the Hooghly and Howrah Districts.	1
Barrackpur Municipal (Muham- madan).	Ditto ..	The municipalities and can- tonments of the Barrack- pore Sub-Division of the 24-Parganas District and the Cossipore-Chitpur municipality.	1
24-Parganas Municipal (Muham- madan).	Ditto ..	The Municipalities of the Sadar, Baraset and Basirhat Sub-Divisions of the 24-Parganas Dis- trict excluding the muni- cipality of Cossipore- Chitpur.	1
Dacca City (Muhammadan) ..	Ditto ..	The municipality of Dacca	1
Burdwan Division North (Muhammadan).	Muhammadan Rural.	The Districts of Burd- wan, Birbhum and Ban- kura.	1
Burdwan Division South (Mu- hammadan).	Ditto ..	The Districts of Midna- pore, Hooghly and Howrah excluding the municipalities of the Hooghly and Howrah Districts.	1
24-Parganas Rural (Muhamma- dan).	Ditto ..	The 24-Parganas District excluding municipal and cantonment areas.	1
Nadia (Muhammadan) ..	Ditto ..	Nadia District ..	1
Murshidabad (Muhammadan)	Ditto ..	Murshidabad District ..	1
Jessore North (Muhammadan)	Ditto ..	The Jhenida and Magura Sub-Divisions of the Jessore District.	1

Name of Constituency.	Class of Constituency.	Extent of Constituency.	Number of Members.
Jessore South (Muhammadan)	Muhammadan Rural.	The Sadar, Bongaon and Narail Sub-Divisions of the Jessore District.	1
Khulna (Muhammadan) ..	Ditto ..	Khulna District ..	1
Dacca West Rural (Muhammadan).	Ditto ..	The Munshiganj and Manikganj Sub-Divisions of the Dacca District.	1
Dacca East Rural (Muhammadan).	Ditto ..	The Sadar and Narayanganj Sub-Divisions of the Dacca District excluding the Dacca Municipality.	1
Mymensingh West (Muhammadan).	Ditto ..	The Jamalpur and Tangail Sub-Divisions of the Mymensingh District.	2
Mymensingh East (Muhammadan).	Ditto ..	The Sadar, Kishoreganj and Netrakona Sub-Divisions of the Mymensingh District.	2
Faridpur North (Muhammadan)	Ditto ..	The Sadar and Goalundo Sub-Divisions of the Faridpur District.	1
Faridpur South (Muhammadan)	Ditto ..	The Madaripur and Gopalganj Sub-Divisions of the Faridpur District.	1
Bakarganj North (Muhammadan).	Ditto ..	The Northern Sadar and Bhola Sub-Divisions of the Bakarganj District.	1
Bakarganj West (Muhammadan)	Ditto ..	The Southern Sadar and Pirojpur Sub-Divisions of the Bakarganj District	1
Bakarganj South (Muhammadan).	Ditto ..	The Patuakhali Sub-Division of the Bakarganj District.	1
Chittagong (Muhammadan) ..	Ditto ..	Chittagong District ..	2
Tippera (Muhammadan) ..	Ditto ..	Tippera District ..	2
Noakhali (Muhammadan) ..	Ditto ..	Noakhali District ..	2
Rajshahi South (Muhammadan)	Ditto ..	The Sadar Sub-Division of the Rajshahi District.	1
Rajshahi North (Muhammadan)	Ditto ..	The Nator and Naugaon Sub-Divisions of the Rajshahi District.	1
Dinajpur (Muhammadan) ..	Ditto ..	Dinajpur District ..	1
Rangpur West (Muhammadan)	Ditto ..	The Sadar and Nilphamari Sub-Divisions of the Rangpur District.	1

Name of Constituency.	Class of Constituency.	Extent of Constituency.	Number of Members.
Rangpur East (Muhammadan)	Muhammadan Rural.	The Gaibandha and Kuri-gaon Sub-Divisions of the Rangpur District.	1
Bogra (Muhammadan) ..	Ditto ..	Bogra District ..	1
Pabna (Muhammadan) ..	Ditto ..	Pabna District ..	1
Malda cum Jalpaiguri (Muhammadan).	Ditto ..	The Districts of Malda and Jalpaiguri.	1
Presidency and Burdwan (European).	European ..	The Presidency and Burdwan Divisions.	3
Dacca and Chittagong (European).	Ditto ..	The Divisions of Dacca and Chittagong, excluding the Chittagong Hill Tracts.	1
Rajshahi (European) ..	Ditto ..	The Division of Rajshahi, excluding the District of Darjeeling.	1
Anglo-Indian .. ..	Anglo-Indian ..	The Presidency of Bengal, excluding the District of Darjeeling and the Chittagong Hill Tracts.	2
Burdwan Landholders ..	Landholders ..	The Burdwan Division ..	1
Presidency Landholders ..	Ditto ..	The Presidency Division ..	1
Dacca Landholders ..	Ditto ..	The Dacca Division ..	1
Chittagong Landholders ..	Ditto ..	The Chittagong Division, excluding the Chittagong Hill Tracts.	1
Rajshahi Landholders ..	Ditto ..	The Rajshahi Division, excluding the District of Darjeeling.	1
Calcutta University ..	University ..	(Non-territorial) ..	1
Dacca University .. ..	Ditto ..	Ditto .. ..	1
Bengal Chamber of Commerce	Commerce and Industry.	Ditto .. ..	6
Indian Jute Mills Association ..	Ditto ..	Ditto .. ..	2
Indian Tea Association ..	Ditto ..	Ditto .. ..	1
Indian Mining Association ..	Ditto ..	Ditto .. ..	1
Calcutta Trades Association ..	Ditto ..	Ditto .. ..	1
Bengal National Chamber of Commerce.	Ditto ..	Ditto .. ..	2
Bengal Marwari Association ..	Ditto ..	Ditto .. ..	1
Bengal Mahajan Sabha ..	Ditto ..	Ditto .. ..	1

**SCHEDULE II.***(See rule 8.)***QUALIFICATIONS OF ELECTORS.****1. In this Schedule—****Definitions.**

- (a) “ an Anglo-Indian ” means any person being a British subject and resident in British India,—
  - (i) of European descent in the male line who is not a European, or
  - (ii) of mixed Asiatic and non-Asiatic descent whose father, grandfather or more remote ancestor in the male line was born in the Continent of Europe, Canada, Newfoundland, Australia, New Zealand, the Union of South Africa or the United States of America, and who is not a European;
- (b) “ a European ” means any person of European descent in the male line, being a British subject and resident in British India, who either was born in or has a domicile in the United Kingdom or in any British possession or in any State in India, or whose father was so born or has or had up to the date of the birth of the person in question such a domicile;
- (c) “ previous year ” means the financial year preceding that in which the electoral roll or the list of amendments thereto as the case may be for the time being under preparation is first published under these rules.

*General Constituencies.***2. A person shall be qualified as an elector—****Qualifications based on community.**

- (a) for a non-Muhammadian constituency who is neither a Muhammadan nor a European nor an Anglo-Indian, and
- (b) for a Muhammadan, European or Anglo-Indian constituency according as he is a Muhammadan, European or Anglo-Indian:

Provided that such person possesses the further qualifications hereinafter prescribed for an elector of the particular constituency.

**Urban and rural  
constituencies  
other than  
Calcutta  
constituencies.**

3. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified as an elector for an urban or rural constituency, other than a Calcutta constituency, who has a place of residence in the constituency, and who—

(1) has paid, during and in respect of the previous year or, as the case may be, during and in respect of the Bengali year preceding that in which the electoral roll for the time being under preparation is first published under these rules,—

(a) in the municipalities of Howrah or Cossipore-Chitpur, municipal taxes or fees of not less than Rs. 3, or any other municipal or cantonment area, municipal or cantonment taxes or fees of not less than Rs. 1-8-0, or

(b) road and public works cesses under the Cess Act, 1880, of not less than Re. 1, or

Ben. Act  
IX of  
1880.

(c) chaukidari tax under the Village-Chaukidari Act, 1870, or union rate under the Bengal Village Self-Government Act, 1919, of not less than Rs. 2, or

Ben. Act  
VI of  
1870.

Ben. Act  
V of 1919.

(2) was in the previous year assessed to income-tax; or

(3) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces.

**Calcutta  
constituencies.**

4. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified as an elector for a Calcutta constituency who has a place of residence therein, or who, having a place of residence in Calcutta as defined in section 3 (7) of the Calcutta Municipal Act, 1899, has a place of business within the constituency, and who—

Ben. Act  
III of  
1899.

(1) during the previous year—

(i) was entered in the municipal assessment book as—

(a) the owner and occupier of some land or building in Calcutta separately numbered and valued for assessment purposes at not less than Rs. 150 per annum, or

- (b) the owner or occupier of some land or building in Calcutta separately numbered and valued for assessment purposes at not less than Rs. 300 per annum:

Provided that no person shall be qualified in virtue of any of the above qualifications unless the owner and occupier's share, or the owner's or occupier's share, as the case may be, of the consolidated rate on such land or building for the aforesaid year has been paid during that year; or

- (ii) has paid in respect of that year on his sole account and in his own name not less than Rs. 24 either in respect of the consolidated rate levied under Chapter XII, or in respect of the taxes levied under Chapter XIII, or in respect of the taxes levied under Chapter XIV, of the Calcutta Municipal Act, 1899:

Ben. Act  
III of  
1899.

Provided that, if any payment has been made in respect of the consolidated rate, a person shall be qualified only if his name is entered in the municipal assessment book in respect of the holding for which payment was made; or

- (2) (a) was in the previous year assessed to income-tax, or  
(b) is a member of a firm which in the previous year was assessed to income-tax and whose share of the firm's income on which income-tax was so assessed is certified by an Income-tax Officer in a certificate specifying the names and shares of the partners of the firm to have been not less than the minimum on which the tax is leviable; or  
(3) is a retired, pensioned or discharged officer, non-commissioned officer or soldier of His Majesty's regular forces.

5. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified as an elector for a European constituency who has a place of residence in the constituency and has any of the qualifications prescribed for an elector of any urban or rural constituency included in the area of such European constituency. **European constituencies.**

6. Subject to the provisions of paragraph 2 of this Schedule, a person shall be qualified as an elector in the **The Anglo-Indian constituency.**

Anglo-Indian constituency who has a place of residence in Bengal and has any of the qualifications prescribed for an elector of any urban or rural constituency.

**Joint families.**

7. Where property is held or payments are made jointly by the members of a joint family, the family shall be adopted as the unit for deciding whether under this Schedule the requisite qualification exists; and, if it does exist, the person qualified shall be the manager of the family.

**Fiduciary capacity.**

8. A person shall not be qualified as an elector for a general constituency by virtue of any property held or payment made as a trustee, administrator, receiver or guardian or in any other fiduciary capacity.

*Special Constituencies.*

**Landholders' constituency.**

9. A person shall be qualified as an elector for a Landholders' constituency who has a place of residence in the constituency and who during the previous year—

- (a) in the case of the Burdwan Landholders' and Presidency Landholders' constituencies, held in his own right as a proprietor one or more estates or shares of estates and paid in respect thereof land revenue amounting to not less than Rs. 4,500, or road and public works cesses amounting to not less than Rs. 1,125, or
- (b) in the case of the Dacca Landholders', the Rajshahi Landholders' and the Chittagong Landholders' constituencies, held in his own right as a proprietor one or more estates or shares of estates, or one or more permanent tenures or shares of such tenures held direct from such a proprietor, and paid in respect thereof land-revenue amounting to not less than Rs. 3,000 or road and public works cesses amounting to not less than Rs. 750.

**Determination of qualification.**

10. In determining the qualification of a person as an elector for a Landholders' constituency—

- (a) only such estates and shares of estates and only such permanent tenures and shares of permanent tenures as are not within the district of Darjeeling or the Chittagong Hill Tracts shall be taken into account;

Ben. Act  
VII of  
1876.

- (b) only such estates and shares of estates as are held by him in his own right and not in a fiduciary capacity and are registered in his own name in the registers maintained under the Land Registration Act, 1876, shall be taken into account;
- (c) only such permanent tenures and shares of permanent tenures as are held by him (as owner) in his own right and not in a fiduciary capacity shall be taken into account;
- (d) only land revenue or road and public works cesses payable in respect of his own personal share shall be taken into account;
- (e) if a landholder pays land revenue or cesses in two or more constituencies and his payments in no one of these constituencies reach the amount prescribed for that constituency, and if his payments in all the constituencies, when aggregated, are not less than the amount prescribed for one of these constituencies in which he has a place of residence and pays land revenue or cesses, he shall be qualified as an elector for that constituency or, if there is more than one such constituency, for the constituency in which he makes the largest payment;
- (f) if the amount of land revenue or road and public works cesses paid by a landholder in respect of any share of an estate or permanent tenure is not definitely known, the District Officer of the district in which such estate or tenure is situated shall estimate the amount paid in respect of such share, and his decision shall be final.

*Explanation.*—A *mutwalli* or manager of a *wakf* estate shall be deemed to hold such estate in his own right, but a trustee or manager of an estate other than a *wakf* estate shall not be so deemed.

11. A person shall be qualified as an elector for the Calcutta University constituency who has a place of residence in Bengal and is a member of the Senate or an Honorary Fellow of the University, or a graduate of the University of not less than seven years' standing.

Calcutta  
University  
constituency.



**Dacca University constituency.**

12. A person shall be qualified as an elector for the Dacca University constituency who—

- (1) has a place of residence in Bengal and is a member of the Court or a registered graduate of the University, or
- (2) has a place of residence in the Dacca Division or in the Chittagong Division, and would be qualified to be registered as a graduate of the University, if he had not before the 1st April, 1920, been registered as a graduate of any other Indian University.

**Commerce and Industry constituencies.**

13. (1) Chamber members of the Bengal Chamber of Commerce and permanent members of the Indian Jute Mills Association, and of the Indian Tea Association, and of the Indian Mining Association shall be qualified respectively as electors for the constituency comprising the Chamber or Association of which they are such members:

Provided that no person shall be so qualified who has not a place of residence in India.

*Explanation.*—“ Chamber member ” and “ permanent member ” include any person entitled to exercise the rights and privileges of Chamber membership or permanent membership, as the case may be, on behalf of any firm, company or other corporation registered as such member.

(2) Members of the Calcutta Trades Association, life and ordinary members of the Bengal National Chamber of Commerce, life and ordinary members of the Bengal Mahajan Sabha, and life, ordinary and mufassal members of the Marwari Association, Calcutta, shall be qualified, respectively, as electors for the constituency comprising the Association, Chamber or Sabha of which they are such members:

Provided that no person shall be so qualified who has not a place of residence in India.

*Explanation.*—“ Member,” “ life member,” “ ordinary member ” and “ mufassal member ” include—

- (a) in the case of a firm, any one partner in the firm, or if no such partner is present in Calcutta at the date fixed for the election, any one person empowered to sign for such firm, and
- (b) in the case of a company or other corporation any one manager, director or secretary of the company or corporation.

## SCHEDULE III.

(See rule 11.)

*Form of Nomination Paper.*

## NOMINATION PAPER.

Name of the Constituency for which the candidate is nominated	...	...	.....
Name of candidate	...	...	.....
Father's name	...	...	.....
Age	...	...	.....
Address	...	...	.....
† Denomination ( <i>state whether non-Muhammadan, Muhammadan, European, or Anglo-Indian</i> )	.....		
Constituency on the electoral roll of which the candidate is registered as an elector	.....		
*No. of the candidate in the electoral roll of the constituency in which he is registered as an elector	...	...	.....
Name of proposer	...	...	.....
*No. of the proposer in the electoral roll of the constituency	...	...	.....
Signature of the proposer	...	...	.....
Name of the seconder	...	...	.....
*No. of the seconder in the electoral roll of the constituency	...	...	.....
Signature of the seconder	...	...	.....

*Declaration by Candidate.*

I hereby declare that I agree to this nomination.

Date..... Signature of candidate.....

\* Where the electoral roll is sub-divided and separate serial numbers are assigned to the electors entered in each sub-division, a description of the sub-division in which the name of the person concerned is entered must also be given here.  
 † Not to be entered in case of special constituency.

*To be filled in by the Returning Officer or other authorised person.**Certificate of Delivery.*

This nomination paper was delivered to me at my office at (date **Serial number.** and hour.....).

*Returning Officer or other authorised person.*

*Certificate of Scrutiny.*

I have scrutinized the eligibility of the candidate, the proposer and seconder, and find that they are respectively qualified to stand for election, to propose and to second the nomination.

.....

*Returning Officer or other authorised person.*

---

(N. B.—This nomination paper will not be valid unless it is delivered to the Returning Officer or other person authorised to receive it, at his office before 3-0 P. M. on ..... 192 ..)

**SCHEDULE IV.**

(See rule 19.)

*Return of Election Expenses.*

1. Under the head of receipts there shall be shown the name and description of every person (including the candidate), club, society or association from whom any money, security or equivalent of money was received in respect of expenses incurred on account of, or in connection with, or incidental to, the election, and the amount received from each person, club, society or association separately.

2. Under the head of expenditure there shall be shown—

- (a) the personal expenditure of the candidate incurred or paid by him or his election agent, including travelling and all other personal expenses incurred in connection with his candidature;
- (b) the name, and the rate and total amount of the pay, of each person employed as an agent (including the election agent), clerk or messenger;
- (c) the travelling expenses and any other expenses incurred by the candidate or his election agent on account of agents (including the election agent), clerks or messengers;
- (d) the travelling expenses of persons, whether in receipt of salary or not, incurred in connection with the candidature, and whether paid or incurred by the candidate, his election agent or the person so travelling;
- (e) the cost whether paid or incurred of—
  - (i) printing,
  - (ii) advertising,
  - (iii) stationery,
  - (iv) postage,

- (v) telegrams, and
- (vi) rooms hired either for public meetings or as committee rooms,
- (f) any other miscellaneous expenses whether paid or incurred.

NOTE.—(1) All expenses incurred in connection with the candidature whether paid by the candidate, his election agent, or any other person, or remaining unpaid on the date of the return are to be set out.

(2) For all items of Rs. 5 and over, unless from the nature of the case (*e.g.*, travel by rail or postage) a receipt is not obtainable, vouchers are to be attached.

(3) All sums paid but for which no receipt is attached are to be set out in detail with dates of payment.

(4) All sums unpaid are to be set out in a separate list.

3. The form of the declarations referred to in rule 19 shall be as follows :—

*Form of Declaration by Election Agent.*

I,..... being the appointed election agent for....., a candidate for election in the.....constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, 's candidature.

*Election Agent.*

*Solemnly affirmed before me.*

*(Magistrate.)*

*Form of Declaration by Candidate.*

I,..... being a candidate for election in the..... constituency, do hereby solemnly affirm that the above return of election expenses is true to the best of my knowledge and belief, and that, except the expenses herein set forth, no expenses of any nature whatsoever have to my knowledge or belief been incurred in, or for the purposes of, my candidature.

*Candidate:*

*Solemnly affirmed before me.*

*(Magistrate.)*

*Special form of Declaration by a Candidate under  
rule 19, sub-rule (4).*

I,..... being a candidate for election in the..... constituency, do hereby solemnly affirm that the return of election expenses signed by my election agent is (with the exceptions noted below) true to the best of my knowledge and belief, and that (with the exceptions noted below) no expenses of any nature whatsoever other than the expenses therein set forth have to my knowledge or belief been incurred in or for the purposes of my candidature.

*Particulars of Exceptions.*

.....

(Sd.) .....

(Candidate.)

*Solemnly affirmed before me.*

(Sd.) .....

(Magistrate.)

## SCHEDULE V.

(See rules 5, 7, 22, 33, 44 and 47.)

The following shall be deemed to be corrupt practices for the purposes of these rules :—

### PART I.

**Bribery.** 1. A gift, offer or promise by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, of any gratifications to any person whomsoever, with the object, directly or indirectly, of inducing—

- (a) a person to stand or not to stand as, or to withdraw from being, a candidate, or
- (b) an elector to vote or refrain from voting at an election,

or as a reward to—

- (a) a person for having so stood or not stood or for having withdrawn his candidature, or
- (b) an elector for having voted or refrained from voting.

*Explanation.*—For the purpose of this clause the term “ gratification ” is not restricted to pecuniary gratifications

or gratifications estimable in money, and includes all forms of entertainment and all forms of employment for reward; but it does not include the payment of any expenses *bonâ fide* incurred at or for the purposes of any election and duly entered in the return of election expenses prescribed by these rules.

2. Any direct or indirect interference or attempt to interfere on the part of a candidate or his agent or of any other person with the connivance of the candidate or his agent with the free exercise of any electoral right.

**Undue influence.**

*Explanation.*—(1) Without prejudice to the generality of the provisions of this clause, any such person as is referred to herein who—

(a) threatens any candidate or voter or any person in whom a candidate or voter is interested, with injury of any kind; or

(b) induces or attempts to induce a candidate or voter to believe that he or any person in whom he is interested will become or will be rendered an object of divine displeasure or spiritual censure, shall be deemed to interfere with the free exercise of the electoral right of such candidate or voter within the meaning of this clause.

(2) A declaration of public policy or a promise of public action or the mere exercise of a legal right without intent to interfere with an electoral right shall not be deemed to be interference within the meaning of this clause.

3. The procuring or abetting or attempting to procure by a candidate or his agent, or by any other person with the connivance of a candidate or his agent, the application by a person for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or by a person who has voted once at an election for a voting paper in his own name at the same election.

**Personation.**

4. The publication by a candidate or his agent, or by any other person with the connivance of the candidate or his agent, of any statement of fact which is false and which he either believes to be false or does not believe to be true in relation to the personal character or conduct of any candidate or in relation to the candidature or withdrawal of any candidate, which statement is reasonably calculated to prejudice the prospects of such candidate's election.

**Publication of false statements.**

**Authorisation  
of expenditure.**

5. The incurring or authorising by a candidate or his agent of expenditure on the employment of any person by a candidate or his agent in contravention of the provisions of any notification of the Governor-General in Council issued under rule 20 of these rules.

**PART II.****Acts under  
Part I.**

1. Any act specified in Part I, when done by a person who is not a candidate or his agent or person acting with the connivance of a candidate or his agent.

**Personation.**

2. The application by a person at an election for a voting paper in the name of any other person, whether living or dead, or in a fictitious name, or for a voting paper in his own name after he has already voted at such election.

**Bribery.**

3. The receipt of, or agreement to receive, any gratification, whether as a motive or a reward,—

(a) by a person to stand or not to stand as, or to withdraw from being, a candidate, or

(b) by any person whomsoever for himself or any other person for voting or refraining from voting, or for inducing or attempting to induce any elector to vote or refrain from voting or any candidate to withdraw his candidature.

**Payment for  
conveyances.**

4. Any payment or promise of payment to any person whomsoever on account of the conveyance of any elector to or from any place for the purpose of recording his vote.

**Hiring and use  
of public  
conveyances.**

5. The hiring, employment, borrowing or using for the purposes of the election of any boat, vehicle or animal usually kept for letting on hire or for the conveyance of passengers by hire :

Provided that any elector may hire any boat, vehicle or animal, or use any boat, vehicle or animal which is his own property, to convey himself to or from the place where the vote is recorded.

**Incurring  
expenses without  
authority.**

6. The incurring or authorisation of expenses by any person other than a candidate or his election agent on account of holding any public meeting or upon any advertisement, circular or publication or in any other way whatsoever for the purpose of promoting or procuring the election of such candidate, unless he is authorised in writing so to do by the candidate.

**Hiring of  
liquor shops.**

7. The hiring, using or letting, as a committee-room or for the purpose of any meeting to which electors are admitted, of any building, room or other place where intoxicating liquor is sold to the public.

8. The issuing of any circular, placard or poster having reference to the election which does not bear on its face the name and address of the printer and publisher thereof.

Issue of circulars, etc., without printer's and publisher's name printed thereon.

### **The Bengal Electoral Regulations.**

(Published under Notification No. 1627 A.R., dated the 11th August, 1923, in the "Calcutta Gazette," dated the 15th idem, Part I, pages 1133—1168.)

#### **Regulations for the election of members of the Bengal Legislative Council.**

I. In these regulations, which may be called the Bengal Electoral Regulations,— **Definitions.**

(1) "Revising authority" means such person as the returning officer may appoint in writing to perform all or any of the duties of the revising authority under these regulations in respect of any constituency or part of a constituency.

(2) "Attesting officer" means such officer as the local Government may, by notification in the local official Gazette, appoint to perform all or any of the duties of the attesting officer under these regulations, and includes any officer deputed for the time being to perform his duties by the attesting officer, by an order in writing, of which a copy shall be sent to the returning officer.

(3) "Rule" means a rule included in the Bengal Electoral Rules.

#### **The appointment of a Returning Officer.**

II. The returning officers for the constituencies mentioned in the first column of Schedule I hereto annexed shall be the persons respectively specified in the corresponding entry in the second column thereof.

III. (1) The persons specified in the third column of the said schedule may, subject to the control of the returning officer, perform all or any of the functions of the returning officer in the constituencies respectively specified in the corresponding entry in the first column thereof:

Provided that no such person shall perform any of the functions of a returning officer which relate to the acceptance of a nomination paper or to the scrutiny of nominations or to the counting of votes, unless the returning officer is unavoidably prevented from performing the same, in which case the said functions may be performed in any



constituency by a person specified in the corresponding entry in the third column of that schedule.

(2) References to the returning officer in these regulations shall, unless a contrary intention appears, be deemed to include any person when performing any duty or function which he is authorised to perform under sub-regulation (1).

IV. Of the constituencies mentioned in Schedule I to the Bengal Electoral Rules that mentioned in Schedule II to these regulations shall be divided in the manner shown in Schedule II.

#### Preparation of electoral roll.

V. The electoral roll for every constituency specified below shall be prepared by the authority (hereinafter referred to as the "registering authority") noted against each:—

- (1) a Calcutta constituency, by the Deputy Chairman of the Calcutta Corporation;
- (2) a general constituency, other than a Calcutta constituency:—
  - (a) when it comprises a single district, or part of a district by the Magistrate of that district;
  - (b) when it comprises a single division, or part of a division extending over more than one district, by the Commissioner of that division;
  - (c) when it comprises the whole or part of more than one division, by such officer as the local Government may, by notification in the local official Gazette, appoint;
- (3) a landholders' constituency, by the Commissioner of the division;
- (4) a University constituency, by the Registrar of the University;
- (5) a commerce and industry constituency, by such officer as the local Government may, by notification in the local official Gazette, appoint.

VI. For the purpose of preparing the electoral roll the registering authority may employ such agency as he thinks fits

VII. The electoral roll of each constituency shall be prepared in such form and in such language as may be prescribed by the Local Government.

VIII. The registering authority may divide a constituency into electoral areas for the purpose of facilitating

the preparation of the electoral roll, and so much of the roll as relates to an electoral area may be separately prepared.

IX. The electoral roll of every constituency specified below shall be published by the registering authority in the manner noted under each :—

(1) a Muhammadan or non-Muhammadan rural constituency :—

- (a) so much of the roll as relates to each chaukidari union, at the office of the panchayat;
- (b) so much of the roll as relates to each union constituted under the Bengal Village Self-Government Act, 1919, at the office of the union board;
- (c) so much of the roll as relates to the jurisdiction of each police-station, at the police-station;
- (d) so much of the roll as relates to each subdivision, at the sub-divisional office.
- (e) so much of the roll as relates to the area included within the jurisdiction of each sub-registry office, at such office;
- (f) so much of the roll as relates to each municipality, at the municipal office, and the portion of the roll relating to each ward of a municipality, at a convenient place within the ward;
- (g) so much of the roll as relates to the area included within the jurisdiction of each munsif's court, at such court, and the portion of the roll relating to the jurisdiction of the munsifs' courts located at headquarters of districts, at the District Judge's Court;
- (h) a complete copy of the roll, at the offices of the registering authority and of the returning officer;

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of 1919.

(2) a Muhammadan or non-Muhammadan urban constituency :—

- (a) so much of the roll as relates to each municipality or cantonment, at the municipal or cantonment office, and the portion of the roll relating to each ward, at a convenient place within the ward;
- (b) a complete copy of the roll, at the offices of the registering authority and of the returning officer;

(3) a European or Anglo-Indian constituency :—

- (a) so much of the roll as relates to each district and sub-division, at the district and sub-divisional offices, respectively;

- (b) so much of the roll as relates to Calcutta, at the office of the Chairman, Calcutta Corporation;
- (c) a complete copy of the roll, at the offices of the—
  - (i) registering authority,
  - (ii) returning officer;
- (4) a Landholders' constituency :—
  - (a) so much of the roll as relates to each district and sub-division at the district and sub-divisional offices, respectively,
  - (b) so much of the roll as relates to the area included within the jurisdiction of each munsif's court, at such court, and the portion of the roll relating to the jurisdiction of the munsifs' courts located at headquarters of districts, at the District Judge's Court,
  - (c) so much of the roll as relates to Calcutta, at the office of the Chairman, Calcutta Corporation,
  - (d) a complete copy of the roll at the offices of the—
    - (i) registering authority,
    - (ii) returning officer;
- (5) a University constituency :—
  - a complete copy of the roll at—
    - (i) each district and sub-divisional office,
    - (ii) the office of the registering authority,
    - (iii) the office of the returning officer ;
- (6) a commerce and industry constituency :—
  - a complete copy of the roll at the offices of—
    - (i) the registering authority,
    - (ii) the returning officer.

X. A notice shall be published, together with the electoral roll, when published under Regulation IX, specifying for each electoral area the revising authority to whom, the place at which, and the period referred to in Regulation XI within which claims for being included in the electoral roll, or objections to any names entered in the roll, are to be preferred.

XI. All such claims and objections to the roll shall be made in writing within forty days from the date of the publication of the roll under Regulation IX and where objection is made to the inclusion in the roll of any person whose name appears therein, shall give in respect of such person all the particulars entered in the roll: Provided that if it appears necessary for the proper preparation of

the roll, the local Government may, by notification in the local official Gazette, prescribe a longer period within which claims and objections shall be preferred in respect of the electoral roll of any constituency.

XII. The revising authority shall not entertain any claim or objection received by him after the time referred to in Regulation XI.

XIII. Every person whose claim or objection is received in time shall be served with a notice by the revising authority specifying the place where and the time when his claim or objection will be heard, and directing him to be present with such evidence as he may wish to adduce.

XIV. When objection is made by any person whose name is on the roll to the inclusion of the name of any other person recorded therein, the revising authority shall serve on such other person a notice giving the grounds on which the inclusion of his name has been objected to, and requiring him to attend with such evidence as he may wish to adduce at the place and time fixed for the hearing of the objection.

XV. Every notice issued by the revising authority shall, if possible, be served personally, and, in default of personal service, shall be served by affixing a copy thereof at the residence within the constituency of the person concerned: Provided that a notice may be served by the revising authority by sending it to the person concerned by registered post. A certificate of service, either personal or otherwise, shall be deemed to be conclusive proof of the fact of such service.

XVI. At the time fixed for the hearing, the revising authority shall hold a summary inquiry into the claim or objection preferred, and shall record his decision. He shall also decide on any application made by the registering authority for corrections to the roll. For the purpose of the inquiry the roll as published under Regulation IX shall be presumed to be correct and complete until the contrary has been proved.

XVII. The decision of the revising authority shall be communicated by him to the registering authority, who shall cause the roll to be altered in accordance therewith.

XVIII. The electoral roll so altered shall be published in the manner prescribed in Regulation IX, and provision may be made for the sale of copies of the roll to the public.

XIX. Applications under sub-rule (6) of rule 9 for amendment of any electoral roll published under Regulation XVIII may be made to the registering authority for

the constituency concerned. The registering authority shall forward them to the local Government and in cases where the local Government direct the preparation of a list of amendments shall deal with such applications in the manner prescribed in Regulations XIII to XVIII for the treatment of claims and objections: Provided that where any such application is made for the correction of any existing entry in the electoral roll and the registering authority is satisfied after personally hearing the applicant that the entry relating to him is erroneous or defective in any particular he may amend the roll or cause it to be amended accordingly.

**Scrutiny of nominations.**

XX. On the date appointed by the local Government for the scrutiny of nominations under sub-rule (2) of rule 11 the candidates, their election agents, one proposer and one seconder of each candidate, and one other person duly authorised in writing by each candidate, but no other person, may attend at such time and place as the returning officer may appoint, and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have been delivered within the time and in the manner prescribed in rule 11.

XXI. (1) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination, and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks necessary, refuse any nomination on any of the following grounds:—

- (i) that the candidate is ineligible for election under rule 5 or rule 6; or
- (ii) that a proposer or seconder is disqualified from subscribing a nomination paper under sub-rule (4) of rule 11; or
- (iii) that there has been any failure to comply with any of the provisions of rule 11 or rule 12; or
- (iv) that the candidate or any proposer or seconder is not identical with the person whose electoral number is given in the nomination paper as the number of such candidate, proposer or seconder, as the case may be; or
- (v) that the signature of the candidate or any proposer or seconder, is not genuine or has been obtained by fraud.

(2) For the purposes of this regulation :—

- (a) the production of any certified copy of an entry made in the electoral roll of any constituency shall be conclusive evidence of the right of any elector named in that entry to stand for election or to subscribe a nomination paper, as the case may be, unless it is proved that the candidate is disqualified under rule 5 or rule 6 or that the proposer or seconder, as the case may be, is disqualified under sub-rule (4) of rule 11 and
- (b) where a person has subscribed whether as proposer or seconder a larger number of nomination papers than there are vacancies to be filled, those of the papers so subscribed which have been first received, up to the number of vacancies to be filled, shall be deemed to be valid.

(3) Nothing contained in clause (ii), clause (iii), clause (iv) or clause (v) of sub-regulation (1) shall be deemed to authorise the refusal of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

XXII. (1) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and, if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(2) The scrutiny shall be completed on the day appointed in this behalf under clause (b) of sub-rule (2) of rule 11 and no adjournment of the proceedings shall be allowed.

XXIII. On completion of the scrutiny of nominations and after the expiry of the period within which candidatures may be withdrawn under sub-rule (8) of rule 11, the returning officer shall forthwith prepare a list of valid nominations and cause it to be affixed in some conspicuous place in his office.

XXIV. If the number of duly nominated candidates is greater than the number of vacancies the returning officer shall forthwith publish in the local official Gazette, and in such other manner as the local Government may prescribe, and in such places in the constituency as he may consider necessary, the names of the candidates as given in the nomination papers in alphabetical order.

**Voting.**

XXV. The local Government shall appoint the hour at which the poll shall commence and the hour at which it shall close on the date appointed for the poll under clause (c) of sub-rule (2) of rule 11. The hours so fixed shall be published by notification in the local official Gazette and in such other manner as the local Government may direct.

XXVI. (1) The returning officer shall select for each constituency as many polling stations as he thinks necessary and shall publish, in such manner as the local Government may prescribe, a list showing the polling stations so selected, and the polling areas for which they have respectively been selected.

(2) The returning officer shall appoint a presiding officer for each polling station and such other persons (hereinafter referred to as polling officers) to assist the presiding officer as he thinks necessary.

XXVII. (1) The presiding officer shall keep order at the polling station, shall see that the election is fairly conducted, shall regulate the number of electors to be admitted at one time, and shall exclude all other persons except—

(a) the polling officers, the candidates, and one agent of each candidate (hereinafter referred to as the polling agent) appointed in writing by the candidate, and authorised in this behalf by the returning officer,

(b) the police or other public servants on duty, and

(c) such other persons as the presiding officer may from time to time admit for the purpose of identifying electors.

(2) The presiding officer shall close the polling station at the hour appointed in that behalf by the local Government under Regulation XXV, so as to prevent the admission thereto of any voter after that hour, provided that all voters present at the polling station before it is so closed shall be entitled to have their votes recorded.

XXVIII. Each polling station shall be furnished with such number of compartments, in which voters can record their votes screened from observation, as the returning officer thinks necessary.

XXIX. (1) The returning officer shall provide at each polling station materials sufficient for the purpose of enabling voters to mark the ballot papers, instruments for

stamping the official mark on such papers, as many ballot boxes as may be necessary, and copies of the electoral roll or of such part thereof as contains the names of the electors entitled to vote at such station.

(2) The official mark shall be kept secret, and a period of not less than seven years shall intervene between the use of the same official mark at elections for the same constituency.

XXX. Every ballot box shall be so constructed that the ballot papers can be introduced therein, but cannot be withdrawn therefrom, without the box being unlocked. The presiding officer at any polling station, immediately before the commencement of the poll, shall show the ballot box empty to such persons as may be present in such station so that they may see that it is empty, and shall then lock it up, and place his seal upon it in such manner as to prevent its being opened without breaking such seal, and shall place it in his view for the receipt of ballot papers and keep it so locked and sealed.

XXXI. Before the polling station is open for the recording of votes, the presiding officer shall read to such persons as may be present the provisions of section 14 of the Indian Election Offences and Inquiries Act, 1920, and shall explain the substance thereof in the vernacular of the district. XXXIX of  
1920.

XXXII. Immediately before a ballot paper is delivered to an elector, it shall be marked on the back with the official mark, and the number, name and description of the elector as stated in the electoral roll shall be called out, and the number of the elector shall be entered on the counterfoil, and a mark shall be placed in a copy of the electoral roll against the number of the elector, to denote that he has received a ballot paper, but without showing the particular ballot paper which he has received. On the counterfoil shall be entered the name of the constituency and the name or distinctive number of the polling station.

XXXIII. The elector, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station, and there make a mark on the ballot paper against the name of the candidate or candidates for whom he intends to vote in accordance with the instructions set out on the back of the outerfoil paper, and fold it up so as to conceal his vote, and, after showing to the presiding officer the official mark, shall put his ballot paper, so folded up, into the ballot box. Every elector shall vote



without undue delay and shall quit the polling station as soon as he has put his ballot paper into the ballot box.

XXXIV. If the voter, owing to illiteracy or infirmity, is unable to read a ballot paper or to make a mark thereon the presiding officer shall mark the vote in the ballot paper according to the direction of the voter. The voter shall then himself or with the assistance of the presiding officer put the ballot paper folded up into the ballot box.

XXXV. At any time before a ballot paper is delivered to an elector, the presiding officer or polling officer may, of his own accord, if he has reason to doubt the identity of the elector or his right to vote at such station, and shall, if so required by a candidate or polling agent, put to the elector the following questions :—

- (1) Are you the person enrolled as follows (reading the whole entry from the roll)? and,
- (2) Have you already voted at the present election in this constituency? and, at a general election
- (3) Have you already voted at this general election for the Legislative Council in any other general constituency?

and the elector shall not be supplied with a ballot paper if he refuses to answer any one of the questions and unless he answers the first question in the affirmative, the second question in the negative, and, at a general election, the third question also in the negative.

XXXVI. The ballot paper shall be in Form I annexed to these regulations and shall contain the names of the candidates arranged alphabetically in the order of their surnames. The ballot papers shall be serially numbered, the serial number being printed on the face of the counter-foil and on the back of the ballot paper.

XXXVII. If a person representing himself to be a particular elector named on the electoral roll applies for a ballot paper after another person has voted as such elector, the applicant shall, after duly answering such questions as the presiding officer may ask, be entitled to mark a ballot paper in the same manner as any other voter. Such ballot paper (hereinafter referred to as a "tendered ballot paper") shall be of a colour different from the other ballot papers, and, instead of being put into the ballot box, shall be given to the presiding officer and endorsed by him with the name of the voter and his number on the electoral roll and the name of the electoral area to which the roll relates and shall be set aside in a separate packet and shall

not be counted by the returning officer. The name of the voter and his number in the electoral roll and the name or distinctive number of the polling station to which the roll relates shall be entered in a list in Form II annexed to these regulations, which shall bear the heading "Tendered votes list." The person tendering such ballot paper shall sign his name and address thereon or affix his thumb impression against the entry in that list.

XXXVIII. If any polling agent declares and undertakes to prove that any person by applying for a ballot paper has committed the offence of personation, the presiding officer may require such person to enter in the list of challenged votes (which shall be in Form III annexed to these regulations) his name and address, or, if he is unable to write, to affix his thumb impression thereto and may further require such person to produce evidence of identification. If such person on being questioned in the manner provided in Regulation XXXV answers the first question in the affirmative and the other questions in the negative, he shall be allowed to vote after he has been informed of the penalty for personation. The presiding officer shall make a note of the circumstances, and of his decision on the list of challenged votes.

XXXIX. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot conveniently be used as a ballot paper may, on delivering it to the presiding officer and satisfying him of the inadvertence, obtain another ballot paper in place of the spoilt paper, and the latter shall, together with its counterfoil, be marked as cancelled.

XL. A presiding officer, polling officer or polling agent who is on duty at a polling station at which he is not entitled to vote shall, if he is certified by the returning officer of the constituency in which he is entitled to vote to be entitled to vote at the election for the constituency in connection with which he is employed or for any other constituency, be allowed to record his vote at that polling station. The name of the polling station at which he would otherwise have been entitled to vote shall be entered in the counterfoil of the ballot paper together with his number in the electoral roll for the constituency in which that polling station is situated.

XLI. Such ballot paper shall be placed in an envelope and sealed by the presiding officer and returned with the certificate referred to in Regulation XL to the returning officer who has granted the same, and such returning

officer shall cause such vote to be included among the other votes given for the candidate designated by the voter.

XLII. The presiding officer of each polling station, as soon as practicable after the close of the poll, shall, in the presence of any candidates or polling agents who may be present, make up into separate parcels and seal with his own seal and the seal of such candidates or agents as may desire to affix their seal:—

- (1) each ballot box in use at each station unopened but with the key attached;
- (2) the unused ballot papers;
- (3) the tendered ballot papers;
- (4) the spoilt ballot papers;
- (5) the marked copy of the electoral roll;
- (6) the counterfoils of the ballot papers;
- (7) the tendered votes list; and
- (8) the list of challenged votes;

and shall deliver such packets to the returning officer.

XLIII. The packets shall be accompanied by a statement in Form IV made by the presiding officer, showing the number of ballot papers entrusted to him, and accounting for them under the heads of ballot papers in the ballot box, unused, spoilt, and tendered ballot papers, and ballot papers dealt with under Regulation XL.

#### Counting of votes.

XLIV. The returning officer shall as soon as may be practicable after the close of the poll, appoint a date, time and place for the counting of votes and shall give notice in writing thereof to all candidates and election agents.

XLV. (1) No person shall be allowed to be present at the counting of the votes except the returning officer and such persons as he may appoint to assist him in counting the votes, and such other persons as having a right to be present under sub-rule (6) of rule 14.

(2) No person shall be appointed to assist in counting the votes, who has been employed by or on behalf of any candidate for any purpose whatsoever connected with the election.

XLVI. On the day and at the time appointed under Regulation XLIV the returning officer shall, before he commences to count the votes, read the provisions of section 14 of the Indian Election Offences and Inquiries Act,

1920, to such persons as may be present, and shall then proceed as follows:—

- (a) The ballot box or boxes relating to each polling station shall be opened one after another, and the returning officer shall take out the papers therefrom, count them or cause them to be counted, and record the number thereof in a statement. Such statement shall not be shown to any candidate or agent.
- (b) The returning officer shall then mix together all the ballot papers so taken out from the ballot boxes and distribute them in convenient bundles to the persons appointed to assist in counting the votes.
- (c) When the ballot papers have been so distributed, but not before the returning officer shall allow the candidates and their agents reasonable opportunity to inspect, without handling, the ballot papers, and shall on every ballot paper which is wholly or partially rejected endorse the word “rejected.” If any candidate or agent present questions the correctness of the rejection, he shall also record on the ballot paper the grounds for the rejection. No candidate or agent shall be allowed to see the serial number on the back of any ballot paper.
- (d) The returning officer shall, as far as practicable, proceed continuously with the counting of the votes; and shall, during any necessary intervals during which the counting has to be suspended, place the ballot papers, packets and other documents relating to the election under his own seal and the seals of such candidates, or agents as may desire to affix them, and shall cause adequate precautions to be taken for their custody.

XLVII. (1) A ballot paper shall be rejected if—

- (a) it has not on its back the official mark,
- (b) the number of votes recorded thereon exceeds the number of vacancies to be filled,
- (c) no vote is recorded thereon,
- (d) it is void for uncertainty,
- (e) it bears any mark by which the elector can be identified.

(2) The decision of the returning officer as to the validity of a ballot paper shall be final, subject only to reversal on an election petition claiming the seat.

XLVIII. The returning officer shall not open the sealed packets of the tendered votes, the marked copy of the electoral roll or the counterfoils of the ballot papers. He shall verify the statement submitted by the presiding officer under Regulation XLIII by comparing it with the number of counted votes and rejected ballot papers, the unused ballot papers in his possession and the tendered votes list, shall then reclose and reseal each packet which has been opened by him, and shall record on each packet a description of its contents and date of the election to which it refers.

XLIX. The returning officer shall then prepare and certify a return setting forth—

- (1) the result of the verification referred to in Regulation XLVIII,
- (2) the names of the candidates for whom valid votes have been given,
- (3) the number of valid votes given for each candidate,
- (4) the name of the candidate elected,
- (5) the number of votes declared invalid, and
- (6) the number of tendered votes given,

and shall permit any candidate or any representative duly authorised under sub-rule (6) of rule 14 to take a copy of or an extract from such return.

L. The returning officer shall, after reporting the result of the election under rule 14, forward the return and all the packets relating to the election in his possession to the Secretary to the Bengal Legislative Council.

LI. While in the custody of the Secretary to the Bengal Legislative Council, the packets of ballot papers whether counted, rejected or tendered, and of the counterfoils thereof, shall not be opened and their contents shall not be inspected or produced except under the order of a competent Court or of Commissioners appointed to hold an inquiry in respect of an election, but all other documents relating to the election shall be open to public inspection subject to such conditions and to the payment of such fee, if any, as the local Government may impose.

LII. The packets aforesaid shall be retained for a period of one year and shall thereafter be destroyed subject

to any direction to the contrary made by the local Government, or by a competent Court or by Commissioners appointed to hold an inquiry in respect of an election.

**Special Regulations applicable to University and Commerce and Industry constituencies.**

LIII. In the case of an election for a University or Commerce and Industry constituency Regulations XXV to XLIX inclusive shall not be applicable, and the following Regulations LIV to LIX inclusive, shall be substituted therefor and shall apply.

LIV. On or before the date fixed in this behalf by the local Government the returning officer shall send by registered post to each elector a ballot paper, together with an intimation of the date appointed by him for the counting of votes and shall enter on the counterfoil of each ballot paper the name of the elector to whom the ballot paper is sent.

The ballot paper, together with such intimation, shall be sent to the address of the elector as shown in the electoral roll, or in the case of a Commerce and Industry constituency, to the latest known address of the elector as registered in the office of the Chamber, Association or Sabha comprising the constituency.

The form of the ballot paper in the case of a Commerce and Industry constituency, shall be in Form V annexed to these regulations, and, in the case of a University constituency, in Form VI annexed to these regulations.

LV. In the case of a University constituency an elector shall obtain the attestation of his signature, and declaration but not of his vote, by a magistrate, judge, subordinate judge, munsif, fellow of the University, member of the university court or principal of a college affiliated to the University, to whom he is personally known, or to whose satisfaction he has been identified.

LVI. Any elector may send his ballot paper to the returning officer after recording his vote thereon in accordance with the instructions on the ballot paper; provided that voting papers which are not received by the returning officer before the date fixed for the counting of the votes shall be rejected.

LVII. Any ballot paper which is not duly marked, or on which more than one mark is placed against any candidate's name, or on which votes are given to more candidates than there are members to be elected, or on which a

mark is placed in such a manner as to make it doubtful to which candidate it has been given, or, in the case of a University constituency, on which the signature of the elector is not duly attested, shall be invalid.

LVIII. (1) The returning officer shall appoint a date, time and place for the counting of votes, and shall give notice thereof in writing to the candidates.

(2) On the day appointed the returning officer shall—

- (a) after scrutiny, separate, or cause to be separated, the ballot papers which he deems valid from those which he rejects, endorsing on the latter the word “ rejected ” and the ground of rejection;
- (b) count, or cause to be counted, the votes given to each candidate, and declare the candidate, or candidates, with the largest number of valid votes to be elected;
- (c) upon the completion of counting, prepare and certify a return setting forth—
  - (i) the number of valid votes given for each candidate;
  - (ii) the number of votes declared invalid and rejected;
  - (iii) the names of the persons declared elected;
- (d) permit any candidate or representative duly authorised under sub-rule (6) of rule 14 to take a copy of, or an extract from, the return; and
- (e) seal up in separate packets the counted and rejected ballot papers, and record on each such packet a description of its contents and the name of the constituency and the date of the election to which it refers.

LIX. The local Government shall appoint and notify in such manner as it thinks fit the date referred to in Regulation LIV.

**Special Regulations applicable to Landholders' constituencies.**

LX. In the case of an election for a landholders' constituency Regulations XXV to XLIX shall not be applicable and the following Regulations LXI to LXVII inclusive, shall be substituted therefor, and shall apply.

LXI. On or before such date as may be appointed by the local Government in this behalf, the returning officer shall send by registered post to each elector a ballot paper

in Form VII annexed to these regulations, together with an intimation of the date appointed by him for the counting of votes, and shall enter on the counterfoil of each ballot paper, the name of the elector to whom the ballot paper is sent. The ballot paper, together with such intimation, shall be sent to the address of the elector as shown in the electoral roll.

LXII. On or before such date as may be appointed by the local Government in this behalf, but not later than 5 P.M. on that date, each elector desirous of recording his vote shall sign the declaration on the back of the ballot paper in the presence and at the office of an attesting officer, and the attesting officer shall thereupon attest his signature.

LXIII. The elector shall then proceed to a place set apart for that purpose by the attesting officer, and screened from observation, and there shall record his vote on the ballot paper in accordance with the instructions contained therein, and after placing the ballot paper in an envelope, and closing the same, shall deliver it to the attesting officer.

LXIV. If an elector is unable to read or write, or by reason of some physical defect is incapacitated from recording his vote, the attesting officer shall assist him in such manner as may be necessary to mark the ballot paper and to sign the declaration thereon.

LXV. The attesting officer shall, as soon as possible after 5 P.M. of the day appointed as the latest date for the attestation of ballot papers, despatch all the envelopes so delivered to him to the returning officer by registered post in a packet securely sealed with his official seal, and shall also enclose a list, in Form VIII annexed to these regulations, of the electors whose ballot papers he has attested.

LXVI. A ballot paper that is not duly attested, or marked, or on which more than one mark is placed against any candidate's name or on which votes are given to more candidates than there are members to be elected or on which a mark is placed in such a manner as to render it doubtful to which candidate it has been given, shall be invalid.

LXVII. (1) The returning officer shall appoint a date, time and place for the counting of votes, and shall give notice thereof in writing to the candidates.

(2) On the day appointed the returning officer shall fold the lower portion of every ballot paper along the dotted line on the back so as to conceal the names of the elector



and of the attesting officer and should seal down the portion thus folded with the official seal and thereafter shall—

- (a) after scrutiny, separate or cause to be separated, the ballot papers which he deems valid from those which he rejects, endorsing on the latter the word “ rejected ” and the ground of rejection;
- (b) count, or cause to be counted, the votes given to each candidate and declare the candidate, or candidates, with the largest number of votes to be elected;
- (c) upon the completion of the counting, prepare and certify a return setting forth—
  - (i) the number of valid votes given for each candidate;
  - (ii) the number of votes declared invalid and rejected;
  - (iii) the names of the persons declared elected;
- (d) permit any candidate or his agent to take a copy of, or an extract from, the return;
- (e) seal up in separate packets the counted and rejected ballot papers, and record on each such packet a description of its contents and the name of the constituency and the date of the election to which it refers.

LXVIII. The local Government shall appoint and notify in such manner as it thinks fit the date referred to in Regulation LXI for sending ballot papers to electors and the date referred to in Regulation LXII for the attestation of ballot papers.

**Special Regulations applicable to the Presidency and Burdwan (European) constituency.**

LXIX. In the case of an election for the Presidency and Burdwan (European) constituency, Regulations XLVI to XLIX shall not be applicable and the following Regulations LXX to LXXXIII inclusive shall be substituted therefor, and shall apply.

LXX. In the following regulations—

- (1) the expression “ continuing candidate ” means any candidate not elected and not excluded from the poll;

- (2) the expression “ first preference ” means the figure “ 1 ”; the expression “ second preference ” means the figure “ 2 ”; and the expression “ third preference ” means the figure “ 3,” set opposite the name of any candidate, and so on;
- (3) the expression “ transferable paper ” means a ballot paper on which a second or subsequent preference is recorded for a continuing candidate;
- (4) the expression “ non-transferable paper ” means a ballot paper on which no second or subsequent preference is recorded for a continuing candidate:

Provided that a paper shall be deemed to be a non-transferable paper in any case in which—

- (a) the names of two or more candidates (whether continuing or not) are marked with the same figure, and are next in order of preference; or
- (b) the name of the candidate next in order of preference (whether continuing or not) is marked—
  - (i) by a figure not following consecutively after some other figure on the ballot paper; or
  - (ii) by two or more figures.
- (5) the expression “ original vote ” in regard to any candidate means a vote derived from a ballot paper on which a first preference is recorded for that candidate;
- (6) the expression “ transferred vote ” in regard to any candidate means a vote derived from a ballot paper on which a second or subsequent preference is recorded for that candidate;
- (7) the expression “ surplus ” means the number of votes by which the total number of the votes, original and transferred, credited to any candidate, exceeds the quota.

LXXI. The ballot paper shall contain the names of the candidates arranged alphabetically in the order of **their surnames**. It shall be in the form set out in Form IX annexed to these regulations.

LXXII. (1) Every elector shall have one vote only.

(2) An elector in giving his vote—

- (a) must place on his ballot paper the figure 1 in the square opposite the name of the candidate for whom he votes;
- (b) may, in addition, place on his ballot paper the figure 2 or the figures 2 and 3, or 2, 3 and 4, and so on, in the squares opposite the names of other candidates in the order of his preference.

LXXIII. A ballot paper shall be invalid on which—

- (a) the figure 1 is not marked; or
- (b) the figure 1 is set opposite the name of more than one candidate; or is so placed as to render it doubtful to which candidate it is intended to apply; or
- (c) the figure 1 and some other figure are set opposite the name of the same candidate;
- (d) any mark is made by which the voter may afterwards be identified.

LXXIV. On the day appointed under Regulation XLIV for the counting of votes, the returning officer shall open the ballot box, and, after scrutiny, separate the ballot papers which he deems valid from those which he rejects, endorsing on the latter the word “rejected” and the ground of rejection, and after rejecting any that are invalid, shall arrange the remainder in parcels according to the first preferences recorded for each candidate.

LXXV. The returning officer shall then count the number of papers in each parcel, and credit each candidate with one vote in respect of each valid paper on which a first preference has been recorded for him, and he shall ascertain the total number of valid papers.

LXXVI. The returning officer shall then divide the total number of valid papers by a number exceeding by one the number of vacancies to be filled, and the result increased by one, disregarding any fractional remainder, shall be the number of votes sufficient to secure the return of a candidate (hereinafter called the “quota”).

LXXVII. If at any time the number of votes credited to a candidate is equal to or greater than the quota, that candidate shall be declared elected.

LXXVIII. (1) If at any time the number of votes credited to a candidate is greater than the quota, the

surplus shall be transferred in accordance with the provisions of this regulation to the continuing candidates indicated on the ballot papers in the parcel of the elected candidate, as being next in order of the voters' preference.

(2) (a) If the votes credited to an elected candidate consist of original votes only, the returning officer shall examine all the papers in the parcel of the elected candidate whose surplus is to be transferred, and shall arrange the transferable papers in sub-parcels according to the next preferences recorded thereon.

(b) If the votes credited to an elected candidate consist of original and transferred votes, or of transferred votes only, the returning officer shall examine the papers contained in the sub-parcel last received by the elected candidate and shall arrange the transferable papers therein in further sub-parcels according to the next preferences recorded thereon.

(c) In either case the returning officer shall make a separate sub-parcel of the non-transferable papers and shall ascertain the number of papers in each sub-parcel of transferable papers and in the sub-parcel of non-transferable papers.

(3) If the total number of papers in the sub-parcels of transferable papers is equal to or less than the surplus, the returning officer shall transfer each sub-parcel of transferable papers to the continuing candidate indicated thereon as the voters' next preference.

(4) (a) If the total number of transferable papers is greater than the surplus, the returning officer shall transfer from each sub-parcel the number of papers which bears the same proportion to the number of papers in the sub-parcel as the surplus bears to the total number of transferable papers.

(b) The number of papers to be transferred from each sub-parcel shall be ascertained by multiplying the number of papers in the sub-parcel by the surplus and dividing the result by the total number of transferable papers. A note shall be made of the fractional parts, if any, of each number so ascertained.

(c) If, owing to the existence of such fractional parts, the number of papers to be transferred is less than the surplus, so many of these fractional parts taken in the order of their magnitude, beginning with the largest, as are necessary to make the total number of papers to be transferred equal to the surplus, shall be reckoned as of

the value of unity, and the remaining fractional parts shall be ignored.

If two or more fractional parts are of equal magnitude that fractional part shall be deemed to be the larger which arises from the larger sub-parcel, and if the sub-parcels in question are equal in size, preference shall be given to the candidate who obtained the larger number of original votes.

(d) The particular papers to be transferred from each sub-parcel shall be those last filed in the sub-parcel.

(e) Each paper transferred shall be marked in such a manner as to indicate the candidate from and to whom the transfer is made.

(5) (a) If more than one candidate has a surplus, the largest surplus shall be first dealt with.

(b) If two or more candidates have each the same surplus, regard shall be had to the number of original votes obtained by each candidate, and the surplus of the candidate credited with the largest number of original votes shall be first dealt with, and, if the numbers of the original votes are equal, the returning officer shall decide which surplus he will first deal with.

(c) The returning officer need not transfer the surplus of an elected candidate when that surplus, together with any other surplus not transferred, does not exceed the difference between the totals of the votes credited to the two continuing candidates lowest on the poll.

LXXIX. (1) If at any time no candidate has a surplus (or when under the preceding rule<sup>1</sup> any existing surplus need not be transferred) and one or more vacancies remain unfilled, the returning officer shall exclude from the poll the candidate credited with the lowest number of votes, and shall examine all the papers of that candidate, and shall arrange the transferable papers in sub-parcels according to the next preferences recorded thereon for continuing candidates, and shall transfer each sub-parcel to the candidate for whom that preference is recorded.

(2) If the total of the votes of the two or more candidates lowest on the poll, together with any surplus votes not transferred, is less than the votes credited to the next highest candidate, the returning officer may in one operation exclude those candidates from the poll and transfer their votes in accordance with the preceding regulation.

(3) If, when a candidate has to be excluded under this regulation, two or more candidates have each the same number of votes and are lowest on the poll, regard shall

<sup>1</sup> *sic* read "regulation."

be had to the number of original votes credited to each of those candidates, and the candidate with fewest original votes shall be excluded, and, where the numbers of the original votes are equal, regard shall be had to the total number of votes credited to those candidates at the first transfer at which they had an unequal number of votes, and the candidate with the lowest number of votes at that transfer shall be excluded, and, where the numbers of votes credited to those candidates were equal at all transfers, the returning officer shall decide which shall be excluded.

LXXX. (1) Whenever any transfer is made under any of the preceding regulations, each sub-parcel of papers transferred shall be added to the parcel, if any, of papers of the candidate to whom the transfer is made, and that candidate shall be credited with one vote in respect of each paper transferred. Such papers as are not transferred shall be set aside as finally dealt with, and the votes given thereon shall thenceforth not be taken into account.

(2) If after any transfer a candidate has a surplus, that surplus shall be dealt with in accordance with and subject to the provisions contained in Regulation LXXIX before any other candidate is excluded.

LXXXI. (1) When the number of continuing candidates is reduced to the number of vacancies remaining unfilled, the continuing candidates shall be declared elected.

(2) When only one vacancy remains unfilled, and the votes of some one continuing candidate exceed the total of all the votes of the other continuing candidates, together with any surplus not transferred, that candidate shall be declared elected.

(3) When the last vacancies can be filled under this regulation, no further transfer of votes need be made.

LXXXII. Any candidate, or his duly authorized representative in his absence, may, at any time during the counting of the votes, either before the commencement or after the completion of any transfer of votes (whether surplus or otherwise), request the returning officer to re-examine and recount the papers of all or any candidates (not being papers set aside at any previous transfer as finally dealt with), and the returning officer shall forthwith re-examine and recount the same accordingly. The returning officer may also at his discretion recount votes

either once or more often in any case in which he is not satisfied as to the accuracy of any previous count:

Provided that nothing herein shall make it obligatory on the returning officer to recount the same votes more than once.

LXXXIII. (1) The returning officer shall not open the sealed packets of the tendered votes, the marked copy of the electoral roll or the counterfoils of the ballot papers. He shall verify the statement submitted by the presiding officer under Regulation XLIII by comparing it with the number of counted votes and rejected ballot papers, the unused ballot papers in his possession and the tendered votes list, shall then reclose and reseal each packet which has been opened by him, seal up in separate packets the counted and rejected ballot papers, and record on each packet a description of its contents, the name of the constituency and the date of the election to which it refers.

(2) The returning officer shall prepare and certify a return setting forth—

- (i) the number of valid votes given to each candidate,
- (ii) the number of votes declared invalid and rejected,
- (iii) the number of tendered ballot papers issued to electors as shown in the ballot paper account,
- (iv) the names of the persons declared elected;

and permit any candidate or representative duly authorised under sub-rule (6) of rule 14 to take a copy of or an extract from the return.

#### **Return of election expenses.**

LXXXIV. The return of election expenses prescribed in rule 19 of the Bengal Electoral Rules shall be in Form X annexed to these regulations.

#### **Custody and preservation of election papers.**

LXXXV. (1) The following rules shall be observed for the custody and preservation of the election papers enumerated below:—

- (i) Claims and objections with reference to the preliminary electoral rolls.
- (ii) Final electoral rolls.
- (iii) Nomination papers of candidates.
- (iv) Withdrawals from candidature.

- (v) Orders by returning officers regarding the division of constituencies into polling areas and appointments of polling stations for such areas.
- (vi) Appointment letters of agents of candidates.
- (vii) Lists of candidates nominated.
- (viii) Lists of ballot papers attested.
- (ix) Election petitions and proceedings and reports of election Commissioners thereon.
- (x) Returns of election expenses.

(2) With the exception of papers in items (ii), (ix) and (x) of the above list, the said election papers shall, in the case of general constituencies, except Calcutta constituencies, be kept in the general record-room of the district to which they relate. In the case of Calcutta constituencies, the said papers shall be kept in the office of the Commissioner of the Presidency Division. The said papers in respect of special constituencies shall be kept in the record-room of the Bengal Secretariat. Papers relating to claims and objections decided by revising authorities shall be kept until the next revision of the electoral roll of the constituency to which they pertain has been completed, and shall then be destroyed. Orders by returning officers under Regulation XXVI shall be kept until the termination of the next general election for the constituencies, and shall then be destroyed. The other papers [excluding those in items (ii), (ix) and (x)] shall be kept for a period of one year and shall then be destroyed, unless their retention for a longer period is otherwise ordered by competent authority.

(3) In the general constituencies, five complete copies of the final electoral rolls relating to each district shall be deposited in the Collectorate. Two copies of all final electoral rolls for areas comprised within each division shall be kept in the office of the Commissioner. In Calcutta, five copies of the final rolls for each constituency, or of so much of the roll as relates to that city, shall be kept in the office of the Chairman of the Calcutta Corporation. One complete copy of the electoral roll for each constituency shall also be kept for record in the Appointment Department of the Bengal Secretariat. In the Commerce and Industry constituencies, two copies of the final electoral rolls shall be preserved in the office of the registering authority, and one such copy shall be kept



in the Appointment Department of the Bengal Secretariat. In the case of the Calcutta and Dacca University constituencies, five copies of the final electoral rolls shall be preserved in the office of the registering authority, and one such copy shall be kept in the Appointment Department of the Bengal Secretariat.

(4) Copies of electoral rolls so deposited shall be preserved permanently and shall, before deposit, be duly authenticated by the registering authority.

(5) Printed copies of electoral rolls in excess of the number required for permanent record shall be deposited in the offices of the district officers concerned in the case of Muhammadan and non-Muhammadan constituencies, except in Calcutta, where they will be deposited in the office of the Commissioner, Presidency Division. Similar copies of rolls for European and Anglo-Indian constituencies shall be preserved in the office of the registering authority concerned, and those for special constituencies in the record-room of the Bengal Secretariat. Spare copies of electoral rolls so deposited shall be available for sale to the public for a period of three years from the date of publication, after which they will be destroyed under the orders of the authority with whom they are deposited.

(6) The election petitions and proceedings and reports of election Commissioners thereon, shall be in the record-room of the Bengal Secretariat and shall be destroyed after three years, unless their retention for a longer period is otherwise ordered by competent authority.

(7) The returns of election expenses lodged with returning officers shall be kept by them for three years and shall then be destroyed, unless their retention for a longer period is otherwise ordered by competent authority.

(8) The public shall have a right to inspect the election papers enumerated above and to get attested copies thereof on payment of the fees prescribed in the Bengal Records Manual, 1917, and in the rules for the management of the Secretariat record-room. As an exception to this rule returns of election expenses shall be available for inspection at the offices of the returning officers of the constituencies concerned on payment of a fee of Re. 1 each, and copies of such returns shall be furnished on payment of a fee of Rs. 2 each.

**Special provision.**

LXXXVI. If any question arises as to the interpretation of these regulations otherwise than in connection with an election inquiry held under the electoral rules, the question shall be referred for the decision of the Governor, and his decision shall be final.

## FORM I.

*Form of front of ballot paper.*

(Regulation XXXVI.)

Counterfoil.

Outerfoil.

Serial No.

Front.

Constituency.....

Number of polling  
station.....Number of elector on  
electoral roll.....

Bannorji	
Chatterji	
Chaudhuri	
Ghosh	
Roy	

NOTE.—It is considered important that the whole of the outerfoil of the ballot paper should be taken up by the cage containing the names of candidates and spaces for recording votes and the instructions to votes.

*Instructions.*

(1) The number of members for whom you may vote is.....

(2) Place a cross thus × or a mark against the name of  $\frac{\text{the candidate}}{\text{each of the candidates}}$  for whom you wish to vote.

(3) The mark should be placed against not more than.....

Back of outerfoil.

Serial No.

## FORM II.

*Tendered ballot paper.*

(Regulation XXXVII.)

Polling station.....

Name of constituency.	Name of voter.	Number in electoral roll.	Name or number of the polling station.	Signature or thumb impression of voter and his address.

## FORM III.

*List of Challenged Votes.*

(Regulation XXXVIII.)

Signature sheet No.....

Number on electoral roll.	Name.	Signature of voter if literate or thumb impression if illiterate and address.	Name of identifier, if any.

*Order of Presiding Officer (in each case).*

## FORM IV.

*Ballot paper account.*

(Regulation XLIII.)

	Ordinary ballot papers.	Tendered ballot papers.
1. Number received by the presiding officer	...	...
2. Number of unused ballot papers returned	...	...
3. Number of spoilt ballot papers	...	...
4. Number of tendered ballot papers	...	...
5. Number of ballot papers dealt with under regulation XL	...	...
6. Number in ballot box	...	...

## FORM V.

*Form of Ballot Paper.*

(Regulation LIV.)

Election for                      Constituency, 192     .

Counterfoil  
No.

Ballot paper No.

Datta, Birendra     ..	
Datta, Sailendra Nath ..	
Ghosh, Sasanka     ..	
Ghosh, Tarapada     ..	
Sen, Kishori Mohon   ..	

*Signature of elector.**Address—**Instructions.*

1. The date appointed for the counting of votes is                      192 , and ballot papers must be sent to the returning officer so as to reach him before that date.
2. Not more than one vote may be given to any candidate.
3. Votes may not be given to more candidates than there are members to be elected.
4. Place a mark opposite the name (or names) of the candidate (or candidates) for whom you wish to vote.

## FORM VI.

*Form of Ballot Paper.*

(Regulation LIV.)

Election for

Constituency, 192 .

Counterfoil.

No.

Datta, Birendra ..	
Datta, Sailendra Nath ..	
Ghosh, Sasanka ..	
Gupta, Tarapada ..	
Sen, Kishori Mohan ..	

I hereby declare that I have not voted in any other university constituency.

*Signature of elector.**Address—*

Signed in my presence by \_\_\_\_\_ who is personally known to me (or who has been identified to my satisfaction).

*Signature.**Designation.**Instructions.*

1. The date appointed for the counting of votes is \_\_\_\_\_ 192 , and ballot papers must be sent to the returning officer so as to reach him before that date.
2. Not more than one vote may be given to any candidate.
3. Votes may not be given to more candidates than there are members to be elected.
4. Place a mark opposite the name (or names) of the candidate (or candidates) for whom you wish to vote.
5. Ballot papers may be attested by a Magistrate, Judge, Subordinate Judge, Munsif, Fellow of the University, a member of the Dacca University Court or Principal of a College affiliated to the University.

Back of ballot paper.

Serial No.

## FORM VII.

(Regulation LXI.)

Election for

Constituency, 192

Counterfoil

No.

Datta, Birendra ..	
Datta, Sailendra Nath ..	
Ghosh, Sasanka ..	
Gupta, Tarapada ..	
Sen, Kishori Mohan ..	

*Instructions.*

1. Ballot papers shall be presented for attestation to an attesting officer in his office not later than 5 P.M. on the                      day of                      192 .

The following have been appointed attesting officers: -

All District Magistrates, all Judges, all Subordinate Judges, all Munsifs, the Chief Presidency Magistrate, Calcutta, other stipendiary Presidency Magistrates, the Municipal Magistrate, Calcutta, the Chairman, Calcutta Corporation, the Collector of Calcutta, all Subdivisional Magistrates, the Superintendent, Chittagong Hill Tracts, and the Political Agent, Tripura State.

The attesting officer shall attest the signature only of the voter but not of his vote, which should not be recorded in the presence of the attesting officer.

2. Place a mark opposite the name (or names) of the candidate (or candidates) for whom you wish to vote. After you have recorded your vote place the ballot paper in an envelope and deliver it to the attesting officer.

3. Not more than one vote may be given to any candidate.

4. Votes may not be given to more candidates than there are members to be elected.

5. The date appointed for the counting of votes is the                      day of                      192 .

*Decision of Returning Officer.*

Serial No.

**Form of back of ballot paper.**

I hereby declare that I am the person whose name appears  
as No.            on the electoral roll of landholder for the  
                 constituency.

*Elector.*

.....  
(Fold on this line.)

Signed in my presence at my office by the elector, who is personally known to me (or who has been identified to my satisfaction).

*Attesting Officer.*





## FORM IX.

*Form of Ballot Paper.*

(Regulation LXXI.)

Election for Presidency and Burdwan (European)  
Constituency, 192 .

Counterfoil

	Names of candidates.	Mark order of preference in spaces below.
Serial number	Armstrong, Richard ..	
Number of polling station	Duncan, Robert ..	
Number of elector on electoral roll	McInnes, Douglas ..	
	Robertson, Ivan ..	
	Suteliffe, Christopher ..	
	Webster, John ..	

*Instructions.*

1. Vote by placing the figure 1 in the square opposite the name of the candidate for whom you vote. Though there are more members than one to be elected only place the figure 1 opposite the name of one candidate.

2. As regards the other candidates you may indicate your preference by putting in the square bracket opposite their names the figure of the order in which you would classify them, *i.e.*, 2, 3, 4, etc. You may show your preference in this way irrespective of the number of members to be elected.

3. Do not place more than one figure opposite the name of any candidate.

---

Back of Ballot Paper.

Serial No.

## FORM X.

(Regulation lxxxiv.)

**Regulation—The return of election expenses under Rule 19 shall be in the following form and shall be accompanied by the affidavits in the form given in Schedule III to the Bengal Electoral Rules.**

FORM OF RETURN OF ELECTION EXPENSES.  
For the \_\_\_\_\_ Constituency.  
For the Legislative Council of \_\_\_\_\_

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
Received of A. B., candidate for the above constituency. (Or when the candidate is his own election agent.)		(A) THE PERSONAL EXPENDITURE OF THE CANDIDATE INCURRED OR PAID BY HIM OR BY HIS ELECTION AGENT ON HIS BEHALF, INCLUDING TRAVELLING AND ALL OTHER PERSONAL EXPENSES INCURRED IN CONNECTION WITH HIS CANDIDATURE.		
Paid by me, A. B., candidate for the above constituency.		Paid by me, C. D., as election agent.		
Received of—		(Or when the candidate is his own election agent.)		
(1)		Paid by me, A. B., candidate as my own election agent.		
(2)		(1) On _____ on _____		
(3)		(2) On _____ on _____		
(4)		(3) On _____ on _____		
etc., etc.		(4) On _____ on _____		
Total Receipts.		(1) Paid to _____ on _____		
		(2) " _____ on _____		
		(3) " _____ on _____		
		(4) " _____ on _____		
		etc., etc.		

(*Here set out the name and description of every person, club, society, or association, whether the candidate or not, from whom any money, securities or equivalent of money was received in respect of expenses incurred on account of or in connection with or incidental to the above election. The amount received from each such person, club, society, etc., to be shown separately.*)

Details of all expenditure incurred by or on behalf of the candidate whether in payment for personal services rendered, on account of hotel bills, for travelling whether by rail or in hired conveyance, or for the purchase of books or election literature, etc., should be shown, either in the account or in a separate list annexed to and referred to in the account.

(B) THE NAME AND THE RATE AND TOTAL AMOUNT OF THE PAY OF EACH PERSON EMPLOYED AS AN AGENT (INCLUDING THE ELECTION AGENT), CLERK OR MESSENGER.

Received by me, C. D., as election agent for A. P. ..

(When the candidate is his own election agent the above item will be omitted.)

(1) Paid to .. as sub-agent at  
(2) ..  
(3) ..  
(4) .. etc.

(The name and description of each sub-agent and any sum paid to him must be set out separately.)

(1) Paid to .. as polling agent at the polling station of  
(2) ..  
(3) ..  
(4) ..

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		(1) Paid to services. (2) (3) (4)	as clerk for day's	
		(1) Paid to services. (2) (3) (4)	as messenger for days'	
			etc.	
		<i>(The names and descriptions of every agent, clerk and messenger, and the sum paid to each, must be set out separately either in the account or in a separate list annexed to and referred to in the account with the receipted vouchers of the person employed.)</i>		
		(C) THE TRAVELLING EXPENSES AND ANY OTHER EXPENSES INCURRED BY THE CANDIDATE OR HIS ELECTION AGENT ON ACCOUNT OF AGENTS (INCLUDING THE ELECTION AGENT), CLERKS OR MESSENGERS.		
		Received by me for travelling expenses as election agent		
		(1) On	Rs.	
		(2) On	Rs.	
		(3) On	Rs.	
		Total	..	

(If the candidate is his own election agent leave out the above items.)

- (1) Paid to , sub-agent of the polling district of , as travelling expenses.  
(2)  
(3)  
(4)

*(The name and description of every sub-agent or polling agent and the sum paid to each on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.)*

- (1) Paid to as clerk for travelling expenses  
(2)  
(3)  
(4)

*(The name and description of every clerk and the sum paid to him on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.)*

- (1) Paid to.....as messenger for travelling expenses.  
(2)  
(3)  
(4)

FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		<p><i>(The name and description of every messenger and the sum paid to him on account of travelling or any other expenses must be set out separately either in the account or in a separate list annexed to and referred to in the account, which should include purchase of tickets by rail, hire of vehicles or refreshments provided.)</i></p> <p>(D) THE TRAVELLING EXPENSES OF PERSONS, WHETHER IN RECEIPT OF SALARY OR NOT, INCURRED IN CONNECTION WITH THE CANDIDATURE, AND WHETHER PAID OR INCURRED BY THE CANDIDATE, HIS ELECTION AGENT OR THE PERSON SO TRAVELLING.</p> <p><i>(Under this head should be included any payments made by the candidate or by the election agent on account of any person who travels in connection with the candidature other than persons whose travelling expenses have been shown in the statement under C above.)</i></p> <p>(E) THE COST WHETHER PAID OR INCURRED ON ACCOUNT OF—</p> <ul style="list-style-type: none"> <li>(i) printing,</li> <li>(ii) advertising,</li> <li>(iii) stationery,</li> <li>(iv) postage,</li> <li>(v) telegrams, and</li> <li>(vi) rooms hired either for public meetings or as committee rooms.</li> </ul>		

(i) Paid on account of Printing—		
(1) To.....on		
(2) To.....on		
(3) To.....on		
(4) To.....on		
Total Printing ..		
(The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.)		
(ii) Paid on account of Advertising—		
(1) To	on	
(2) To	on	
(3) To	on	
(4) To	on	
Total Advertising ..		
(The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.)		



FORM OF RETURN OF ELECTION EXPENSES—*contd.*

Receipts.	Rs.	Expenditure.	Rs.	Voucher No.
		(iii) Paid on account of Stationery— (1) To on (2) To on (3) To on (4) To on  Total Stationery ..		
		(The name and description of each person and the nature of the goods supplied, or the work and labour done by each must be set out separately either in the account or in a separate list annexed to and referred to in the account with receipted vouchers for all sums above Rs. 5.)		
		(iv) Paid on account of Postage .. .. (Lump sum may be shown.)		
		(v) Paid on account of Telegrams .. .. (Lump sum may be shown.)		
		(vi) Paid for the hire of rooms .. ..		
		(A room hired for a public meeting or for a committee room or for an office must be named or described so as to identify it, and the name and description of every person		

*to whom any payment was made for each such room, together with the amount paid, must be set out separately either in the account or in a separate list annexed to and referred to in the account.)*

(F) ANY OTHER MISCELLANEOUS EXPENSES  
WHETHER PAID OR INCURRED.

Paid to.....on

Paid to..... on

*(The name and description of each person to whom any sum is paid, and the reason for which it was paid to him, must be set out separately either in the account or in a separate list annexed to and referred to in the account.)*

In addition to the above, I am aware, as election agent for (C. D.), of the following disputed and unpaid claims, namely, —

Disputed claims by.....for.....

*(Here set out the name and description of each person whose claim is disputed, the amount of the claim and the goods, work or other matter on the ground of which the claim is based.)*

Unpaid claims by.....for.....

*(Here state the name and description of each person to whom any such claim is due, and the amount of the claim and the goods, work and labour or other matter on account of which the claim is due.)*

**SCHEDULE I.***(See Regulations II and III.)***Returning officers under the Bengal Electoral Regulations.**

Class of constituency.	Returning Officer.	Other persons authorised to perform the functions of returning Officer.
1. A Calcutta general constituency ..	Chief Presidency Magistrate, Calcutta.	Other stipendiary Magistrates in Calcutta and the 1st and 2nd Municipal Magistrates.
2. A general constituency other than a Calcutta constituency when it comprises a single district or part of a district.	Magistrate of the district	Additional District Magistrate of the district or Joint or Assistant Magistrate (where there is one); the Subdivisional Officers; the two Senior Deputy Magistrates of the district.
3. Hooghly <i>cum</i> Howrah Municipal (Muhammadian).	Commissioner of the Burdwan Division.	District Magistrates of Hooghly and Howrah; Personal Assistant to Commissioner.
4. Burdwan Division North (Muhammadian).	Ditto ..	District Magistrates of Burdwan, Birbhum and Bankura; Personal Assistant to Commissioner.
5. Burdwan Division South (Muhammadian).	Ditto ..	Magistrates of Hooghly, Howrah and Midnapore and Personal Assistant to Commissioner.
6. Malda <i>cum</i> Jalpaiguri (Muhammadian).	Commissioner of the Rajshahi Division.	District Magistrate of Malda, Deputy Commissioner, Jalpaiguri, and Personal Assistant to Commissioner.
7. Bogra <i>cum</i> Pabna (Non-Muhammadian).	Ditto ..	District Magistrates, Pabna and Bogra; Personal Assistant to Commissioner.
8. A landholders' constituency ..	Commissioner of the Division.	Personal Assistant to Commissioner; District Magistrate of the district in which the headquarters of the division is situated and in the case of the Presidency Division, the Collector of Calcutta.
9. Presidency and Burdwan (European).	Member of the Board of Revenue.	Secretary to the Board of Revenue.
10. Anglo-Indian .. ..	Ditto .. ..	Ditto.
11. Dacca and Chittagong (European)	Commissioner of the Dacca Division.	District Magistrate, Dacca; Personal Assistant to Commissioner.
12. Rajshahi (European).. ..	Commissioner of the Rajshahi Division.	Deputy Commissioner, Jalpaiguri; Personal Assistant to Commissioner.
13. Calcutta University .. ..	Registrar of the University.	Controller of Examinations, Calcutta; Assistant Registrar of the University.
14. Dacca University .. ..	Ditto .. ..	Librarian, Dacca University.
15. Bengal Chamber of Commerce ..	Secretary to the Bengal Chamber of Commerce.	Assistant Secretary, Bengal Chamber of Commerce.
16. Indian Jute Mills Association ..	Secretary, Indian Jute Mills Association.	Assistant Secretary, Indian Jute Mills Association.

Class of constituency.	Returning Officer.	Other persons authorised to perform the functions of returning officer.
17. Indian Tea Association. ..	Secretary, Indian Tea Association.	Assistant Secretary, Indian Tea Association.
18. Indian Mining Association ..	Secretary, Indian Mining Association.	Assistant Secretary, Indian Mining Association.
19. Calcutta Trades Association ..	Secretary Calcutta Trades Association.	Master, Calcutta Trades Association.
20. Bengal National Chamber of Commerce.	Vice-President, Bengal National Chamber of Commerce. (Mr. N. G. Sarkar.)	A member of the Executive Committee of the Chamber. (Babu Satyendra Nath Sarkar.)
21. Bengal Marwari Association ..	Joint-Secretary, Bengal Marwari Association.	Personal Assistant to Secretary, Bengal Marwari Association.
22. Bengal Mahajan Sabha	A member of the Executive Committee of the Bengal Mahajan Sabha. (Babu Hemendra Nath Chatterji.)	A member of the Executive Committee of the Sabha (Babu Abi Bhushon Shaha)

**SCHEDULE II.***(Regulation IV.)*

Name of constituency as in Schedule I to the Electoral Rules	Names of constituencies after division.	Class of constituency.	Extent of constituency.	No. of seats.
1	2	3	4	5
Hooghly cum Howrah Rural (Non-Muhammadian).	Hooghly Rural (Non-Muhammadian).	Non-Muhammadian Rural.	The Hooghly district, excluding the municipal area.	1
	Howrah Rural (Non-Muhammadian).	Ditto ..	The Howrah district, excluding the municipal area.	1



## **PART IV.**

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### **THE BENGAL LEGISLATIVE COUNCIL RULES AND STANDING ORDERS.**



## ARRANGEMENT OF RULES AND STANDING ORDERS.

### PART I.—Preliminary.

#### SECTION.

- (1) Rule 2 and Standing Order 2. Definitions.

### PART II.—Meetings of Council.

- |      |                |          |                                                                            |
|------|----------------|----------|----------------------------------------------------------------------------|
| (2)  | Standing Order | 3.       | Notification and summons for meeting.                                      |
| (3)  | "              | "        | 5. Sitting of the Council.                                                 |
| (4)  | "              | "        | 4. Election of Deputy President.                                           |
| (5)  | "              | Rule 3.  | Temporary Chairman.                                                        |
| (6)  | "              | "        | 4. Power of persons presiding.                                             |
| (7)  | "              | "        | 5. Appointment of the Secretary.                                           |
| (8)  | "              | "        | 13. Quorum.                                                                |
| (9)  | Standing Order | 25.      | Adjournment for failure of quorum.                                         |
| (10) | "              | "        | 26. Members' places.                                                       |
| (11) | "              | Rule 14. | Language of the Council.                                                   |
| (12) | Standing Order | 27.      | Members to rise when speaking.                                             |
| (13) | "              | "        | 28. Explanations.                                                          |
| (14) | "              | "        | 29. Limitations on debate.                                                 |
| (15) | "              | Rule 15. | Decision on points of order.                                               |
| (16) | "              | "        | 16. Irrelevance or repetition.                                             |
| (17) | "              | "        | 17. Power to order withdrawal of member.                                   |
| (18) | "              | "        | 6. Allotment of time for non-official business and precedence of business. |
| (19) | Standing Order | 6.       | Business left over from session.                                           |
| (20) | "              | "        | 7. Arrangement of business.                                                |
| (21) | "              | "        | 8. List of business.                                                       |
| (22) | "              | "        | 9. Business outstanding at end of day.                                     |

### PART III.—Questions.

- |      |                |          |                                                          |
|------|----------------|----------|----------------------------------------------------------|
| (23) | Standing Order | 10.      | Time for questions.                                      |
| (24) | "              | "        | 12. Notice of questions.                                 |
| (25) | "              | Rule 7.  | Power to disallow questions.                             |
| (26) | "              | "        | 8. Subject-matter of questions.                          |
| (27) | Standing Order | 14.      | Form and contents of questions.                          |
| (28) | "              | Rule 9.  | Questions regarding controversy with higher authorities. |
| (29) | Standing Order | 15.      | President to decide admissibility of question.           |
| (30) | "              | "        | 16. List of questions.                                   |
| (31) | "              | "        | 13. Matters to which they must relate.                   |
| (32) | "              | "        | 17. Questions how put.                                   |
| (33) | "              | "        | 18. Answers to withdrawn questions.                      |
| (34) | "              | Rule 10. | Supplementary questions.                                 |
| (35) | Standing Order | 19.      | Member may ask for notice of supplementary question.     |
| (36) | "              | "        | 20. Prohibition of discussion.                           |

### PART IV.—Motions.

- |      |                |     |                                                                                  |
|------|----------------|-----|----------------------------------------------------------------------------------|
| (37) | Standing Order | 30. | Motions.                                                                         |
| (38) | "              | "   | 31. Admissibility of motions.                                                    |
| (39) | "              | "   | 32. Repetition of motions.                                                       |
| (40) | "              | "   | 33. Identical motions.                                                           |
| (41) | "              | "   | 34. Order of speeches, right of reply and explanations. Time-limit for speeches. |
| (42) | Standing Order | 35. | Rules as to amendments.                                                          |
| (43) | "              | "   | 36. Order of amendments.                                                         |
| (44) | "              | "   | 37. Division of motions.                                                         |
| (45) | "              | "   | 38. Withdrawal of motions.                                                       |
| (46) | "              | "   | 39. Closure.                                                                     |



## 234 ARRANGEMENT OF RULES AND STANDING ORDERS.

### PART V.—Legislation.

- |      |                |     |                                                |
|------|----------------|-----|------------------------------------------------|
| (47) | Rule           | 18. | Publication of Bills.                          |
| (48) | "              | 19. | Notice of motion for leave to introduce Bills. |
| (49) | "              | 20. | Publication.                                   |
| (50) | Standing Order | 42. | Motion for leave to introduce a Bill.          |

#### (a) Motions after Introduction.

- |      |                |      |                                                                    |
|------|----------------|------|--------------------------------------------------------------------|
| (51) | Standing Order | 43.  | Motions after introduction.                                        |
| (52) | "              | "    | 44. Discussion of Bills.                                           |
| (53) | "              | Rule | 21. Effect of certification by Governor.                           |
| (54) | Standing Order | 40.  | Select committees.                                                 |
| (55) | "              | "    | 41. Proceedings of select committee to be treated as confidential. |

#### (b) Reports by select committees.

- |      |                |     |                                                              |
|------|----------------|-----|--------------------------------------------------------------|
| (56) | Standing Order | 45. | Reports by select committee.                                 |
| (57) | "              | "   | 46. Printing and publication of reports.                     |
| (58) | "              | "   | 47. Presentation of report and procedure after presentation. |

#### (c) Consideration and amendment of Bills.

- |      |                |     |                                                                                   |
|------|----------------|-----|-----------------------------------------------------------------------------------|
| (59) | Standing Order | 48. | Proposal of amendments.                                                           |
| (60) | "              | "   | 49. Notice of amendments.                                                         |
| (61) | "              | "   | 50. Order of amendments.                                                          |
| (62) | "              | "   | 51. Submission of Bill clause by clause.                                          |
| (63) | "              | "   | 52. Passing of Bills.                                                             |
| (64) | "              | "   | 52. Formal revision of Bill and submission of it to President for authentication. |
| (65) | "              | "   | 54. Assent to Bill and publication of Bill as Act.                                |
| (66) | "              | "   | 55. Procedure when Bill is returned by Governor for reconsideration.              |
| (67) | "              | "   | 56. Withdrawal of Bill.                                                           |
| (68) | "              | "   | 57. Communications as to Bills.                                                   |
| (69) | "              | "   | 58. Circulation of communications.                                                |

### PART VI.—Resolutions.

- |      |                |     |                                          |
|------|----------------|-----|------------------------------------------|
| (70) | Standing Order | 63. | Notice of resolutions.                   |
| (71) | Rule           | 22. | Power to disallow resolutions.           |
| (72) | "              | 23. | Restrictions on subjects for discussion. |
| (73) | Standing Order | 64. | Form and contents of resolution.         |
| (74) | "              | "   | 65. Procedure on motion to withdraw.     |
| (75) | "              | "   | 66. Limits of discussion.                |
| (76) | "              | "   | 67. Amendments.                          |
| (77) | "              | "   | 68. Notice of amendment.                 |
| (78) | Rule           | 24. | Copy to Government.                      |

### PART VII.—Motions for adjournment for purposes of debate.

- |      |                |     |                                           |
|------|----------------|-----|-------------------------------------------|
| (79) | Rule           | 11. | Motions for adjournments.                 |
| (80) | "              | "   | 12. Restrictions on power to make motion. |
| (81) | Standing Order | 21. | Time of asking leave.                     |
| (82) | "              | "   | 22. Method of asking leave.               |
| (83) | "              | "   | 23. Procedure to be followed.             |
| (84) | "              | "   | 24. Limitation of time of discussion.     |

**PART VIII.—Budget.**

- (85) Rule 25. The Budget.  
 (86) Standing Order 69. Discussion of Budget.  
 (87) Rule 26. Demands for grants.  
 (88) „ 27. Stages of the Budget Debate.  
 (89) „ 28. General discussions.  
 (90) „ 29. Voting of grants.  
 (91) „ 30. Motions at this stage.  
 (92) Standing Order 71. Restoration of grants by Local Government.  
 (93) Rule 31. Excess grants.  
 (94) „ 32. Supplementary or additional grants.  
 (95) „ 33. Constitution of committee on public accounts.  
 (96) Standing Order 70. Method of election of members of the committee on public accounts.  
 (97) Rule 34. Control of committee on public accounts.

**PART IX.—Amendment of Standing Orders.**

- (98) Standing Order 59. Notice of proposal to amend the standing orders  
 (99) „ „ 60. Procedure.  
 (100) „ „ 61. Reference to select committee.  
 (101) „ „ 62. Subsequent procedure.

**Communication between Governor and the Council.**

- (102) Standing Order 72. Communication with the Governor.

**Notices.**

- (103) Standing Order 11. Giving of notice.

**PART X.—Miscellaneous.**

- (104) Standing Order 73. Journal.  
 (105) „ „ 74. Full report of proceedings.  
 (106) „ „ 75. Admission of strangers.  
 (107) „ „ 76. Power to order withdrawal of strangers

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## SECTION INDEX TO RULES.

## SECTION INDEX TO STANDING ORDERS.

Number of Rule.	Number of Standing Order.	Number of Standing Order.
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4. „ 6	4. „ 4	42. „ 50
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6. „ 18	6. „ 19	44. „ 52
7. „ 25	7. „ 20	45. „ 56
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9. „ 28	9. „ 22	47. „ 58
10. „ 34	10. „ 23	48. „ 59
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12. „ 80	12. „ 24	50. „ 61
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14. „ 11	14. „ 27	52. „ 63
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17. „ 17	17. „ 32	55. „ 66
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31. „ 93	31. „ 38	69. „ 86
32. „ 94	32. „ 39	70. „ 96
33. „ 95	33. „ 40	71. „ 92
34. „ 97	34. „ 41	72. „ 102
	35. „ 42	73. „ 104
	36. „ 43	74. „ 105
	37. „ 44	75. „ 106
	38. „ 45	76. „ 107

# THE BENGAL LEGISLATIVE COUNCIL RULES AND STANDING ORDERS.

## PART I.—Preliminary.

[Published under Notification No. 124, dated the 24th September, 1920 (in *Calcutta Gazette* of the 13th October, 1920, Pt. 1A, p. 799), and Notification No. 1451L., dated the 10th December, 1920 (in *Calcutta Gazette* of the 15th *idem*, Pt. III, p. 61).]

NOTE.—(1) The rules and standing orders have been arranged according to subjects and have been consecutively numbered throughout as sections for easy reference.

The statutory number of each rule or standing order will be found at the end of each rule or standing order.

(2) Under rule 1, the title of the rules is—"The Bengal Legislative Council Rules, 1920" and under Standing Order 1 that of the Standing Orders is—"The Bengal Legislative Council Standing Orders, 1920."

(3) The Bengal Legislative Council rules cannot be amended by the Indian Legislature or by any local legislature (section 129A of the Government of India Act).

(4) The standing orders of the Bengal Legislative Council can be amended by the local legislature, subject to the assent of the Governor [section 72D (6) of the Government of India Act].

(5) Under section 72D (6) of the Government of India Act any standing order, which is repugnant to the provisions of any rules made under that Act, shall, to the extent of that repugnancy, but not otherwise, be void.

(6) The Bengal Legislative Council Rules came into force on the 3rd January, 1921, *see* Notification No. 155, dated the 17th December, 1920, published in the *Gazette of India Extraordinary* of the same date.

### 1. In these rules [or] standing orders—

#### Definitions.

"Budget" means the statement of the estimated annual expenditure and revenue of the Province of Bengal; (Standing Order 2(1).)

"Council" means the Legislative Council of the Governor of Bengal; (Rule 2, Standing Order 2(2).)

"Finance Member" means the member of the Council appointed by the Governor to perform the functions of the Finance Member<sup>1</sup> [under these rules]; (Rule 2, Standing Order 2(3).)

"Gazette" means the *Calcutta Gazette*; (Rule 2.)

"Member" means a member of the Council; (Rule 2, Standing Order 2(4).)

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<sup>1</sup> The words "under these rules" occur in the definition in the rules, but not in the standing orders.

“ Member of <sup>1</sup>[the] Government ” means a member of the Executive Council, or a Minister, and includes any member to whom such member <sup>2</sup>[of Government] may delegate any function assigned to him under these rules [or] standing orders; (Rule 2, Standing Order 2(5).)

“ Motion ” means a proposal made by a member for the consideration of the Council relating to any matter which may be discussed by the Council, and includes an amendment; (Standing Order 2(6).)

“ President ” means—

- (a) the President of the Council, or,
- (b) in the absence of such President, the Deputy President of the Council, or,
- (c) in the absence of the President and Deputy President, the Chairman requested by the President or, in his absence, by the Deputy President, to preside; (Standing Order 2(7).)

“ Resolution ” means a motion for the purpose of discussing a matter of general public interest; (Rule 2, Standing Order 2(8).)

“ Rule ” means a rule of the Council; (Standing Order 2(9).)

“ Secretary ” means a Secretary to the Council, and includes any person for the time being performing the duties of the Secretary; (Rule 2; Standing Order 2(10).)

“ Select committee ” means a committee appointed by the Council to consider or take evidence upon any Bill, or any proposed amendments to standing orders, and to report their opinion for the information and assistance of the Council; (Standing Order 2(11).)

“ Session ” means the whole period, from the time when the Council is assembled to the time when it is prorogued; and (Standing Order 2(12).)

“ Standing order ” means a standing order of the Council; (Rule 2, Standing Order 2(13).)

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<sup>1</sup> The word “ the ” occurs in the definition in the rules, but not in the standing orders.  
<sup>2</sup> The words “ of Government ” occur in the standing orders, but not in the rules.

**PART II.—Meetings of Council.**

**NOTE.**—(1) For the period during which a Legislative Council shall continue from its first meeting—*see* section 72B (1) of the Government of India Act.

(2) For the obligation of members to make an oath or affirmation of allegiance to the Crown before taking their seats—*see* Rule 24 of the Bengal Electoral Rules.

[*See*  
72B (1)  
and (2) of  
the Govt.  
of India  
Act.]

**2.** Whenever it appears to the Governor that the Council should assemble,—

**Notification and summons for meeting.**

- (a) he shall cause a notification to be published in the local official Gazette, appointing the day, hour and place for a meeting of the Council, and
- (b) the Secretary shall send to each member a summons to attend the meeting. (Standing Order 3.)

[*See*  
s. 72B (2) of  
the Govt.  
of India  
Act.]

**3.** Whilst in session, the Council shall meet at such hour as the Governor may appoint. (Standing Order 5.)

**Sitting of the Council.**

**NOTE.**—(1) Under section 72B (2) of the Government of India Act a session of the Council is prorogued by the Governor by notification or otherwise.

**Adjournment and prorogation of Council.**

(2) Under section 72B (3), *ibid*, meetings of the Council may be adjourned by the President.

**Hour of meeting.**

(3) The Council meets ordinarily at 3 p.m. This hour was fixed in response to the wishes of the Council as set out in a resolution carried in Council on the 7th February, 1921—*see* page 51 of Vol. 1, No. 2 of the Proceedings of the Bengal Legislative Council, page 51.

(4) Under section 72C of the Government of India Act the President of the Legislative Council shall, until the expiration of a period of four years from the first meeting of the Council, be a person appointed by the Governor, and shall thereafter be a member of the Council, elected by the Council and approved by the Governor.

**Officers of the Council.**

The Deputy-President of the Legislative Council shall preside at meetings of the Council in the absence of the President, and shall be a member of the Council, elected by the Council, and approved by the Governor.

(5) As regards the nomination of a panel of four Chairman, any one of whom may preside at a meeting in the absence of the President and Deputy-President—*see* rule 3 (section 5), *post*.

[*See*  
s. 72C (2) of  
the Govt.  
of India  
Act.]

**4.** (1) After the members have been sworn in at the beginning of each new Council, the Council shall elect one of its members to be a Deputy President.

**Election of Deputy President.**

(2) Every member who wishes to propose a member for election must—

- (i) ascertain previously that the member is willing to serve if elected, and
- (ii) hand to the President a notice containing the name of the member whom he desires to propose, signed by himself and some other member as seconder.

(3) The President shall read out to the Council the names of the candidates, together with those of their proposers and seconders, and, if only one person has been proposed for election, shall declare that person duly elected. If more than one person has been proposed, the Council shall then proceed to vote on the question by ballot, and the President shall declare the person who receives the majority of the votes to be duly elected. The ballot shall be held in such manner as the President may direct.

NOTE.—For the directions of the President as to the manner of holding the ballot—see page 270 *post*.

(4) If a vacancy in the office of Deputy President occurs during the life of a Council, or if the Governor withholds his approval to any election, a fresh election shall be held in accordance with the procedure hereinbefore mentioned:

Provided that a member whose election has not been approved by the Governor shall not be proposed as a candidate during the continuance of that Council. (Standing Order 4.)

**Temporary  
Chairman.**

5. At the commencement of every session the President shall nominate from amongst the members of the Council a panel of not more than four Chairmen, any one of whom may preside over the Council in the absence of the President and Deputy President, when so requested by the President or, in his absence, by the Deputy President. (Rule 3.)

[See s. 721  
(6) of the  
Govt. of  
India Act.]

**Power of persons  
presiding.**

6. The Deputy President and any Chairman of the Council shall, when presiding over the Council, have the same powers as the President when so presiding, and all references to the President in the rules and standing orders shall, in these circumstances, be deemed to be references to any such person so presiding. (Rule 4.)

[See s. 721  
(6) of the  
Govt. of  
India Act.]

**Appointment  
of the  
Secretary.**

7. The Secretary and such assistants of the Secretary as the Governor considers to be necessary shall be appointed by order in writing by the Governor, and shall hold office during his pleasure. (Rule 5.)

[See s. 72D  
(6) and the  
Third  
Schedule B  
(6) of the  
Govt. of  
India Act.]

**Quorum.**

8. The presence of at least twenty-five members shall be necessary to constitute a meeting of the Council for the exercise of its powers. (Rule 13.)

[See s. 72D  
(6) of the  
Govt. of  
India Act.]

**Adjournment  
for failure  
of quorum.**

9. If the President on a count at any time during a meeting ascertains that twenty-five members are not present he shall adjourn the Council till the next day on which the Council ordinarily sits. (Standing Order 25.)

**10.** The members shall sit in such order as the President may appoint. (Standing Order 26.) **Members' places.**

**NOTE.**—(1) Members are expected to refrain from crossing the floor of the House between the Chair and any member who is speaking.

(2) If a group of members by joint petition apply for the allotment to them of a block of seats and such block is not already allocated, the President will, if possible, allot to that group a block of seats to the members of two-thirds of the number of members who have so applied.

[See s. 72D  
(5) of the  
Govt. of  
India Act.]

**11.** The business of the Council shall be transacted in English, but any member who is not fluent in English may address the Council in any recognised vernacular of the province, provided that the President may call on any member to speak in any language in which he is known to be proficient. (Rule 14.) **Language of the Council.**

**NOTE.**—To allow of an English translation of a précis of a speech delivered by a member in a vernacular to appear in the official proceedings of the Council, it will be necessary for the member so speaking to hand to the Secretary to the Council a certified vernacular précis of his speech within 24 hours of its delivery.

On receipt of such a précis, the Secretary will have the same translated by the Government translator and the translation will be published in the report of the proceedings, with an explanatory note.

**12.** A member desiring to make any observations on any matter before the Council shall speak from his place, shall rise when he speaks, and shall address the President. At any time if the President rises, any member speaking shall immediately resume his seat. (Standing Order 27.) **Members to rise when speaking.**

**NOTE.**—(1) See note on section 41(1) [Standing Order No. 34 (1) on page 249, *post*].

(2) It is customary, when entering or leaving the Council Chamber, or when rising to address the Chair, or when passing the Chair, for members to bow to the Chair; also to rise in their places when the President enters or leaves the Chamber.

**13.** When, for the purpose of explanation during discussion or for any other sufficient reason, any member has occasion to ask a question of another member on any matter then under the consideration of the Council, he shall ask the question through the President. (Standing Order 28.) **Explanations.**

**14.** (1) The matter of every speech must be strictly relevant to the matter before the Council. **Limitations on debate.**

(2) A member while speaking must not—

- (i) refer to any matter of fact on which a judicial decision is pending;
- (ii) make a personal charge against a member;



- (iii) use offensive expressions regarding the conduct of the Indian or any local legislature;
- (iv) reflect upon the conduct of His Majesty the King or the Governor-General or any Governor or any Court of Justice;
- (v) utter treasonable, seditious or defamatory words; and
- (vi) use his right of speech for the purpose of wilfully obstructing the business of the Council. (Standing Order 29.)

NOTE.—(1) It is not in order for a member to cast reflections on the Judges of the High Court, or of any Court, or on an individual Judge. See pages 314 and 315, Vol. III of the Bengal Legislative Council Proceedings; also page 480 of Vol. VIII *ibid*.

(2) It is usual, when the name of a member has been brought into debate, and that member disclaims the interpretation that has been put upon any action or words of his, that the explanation and statement should be accepted—see page 524 of Vol. XI, No. 5, of the Bengal Legislative Council Proceedings.

(3) It is not in order for a member to refer in any way to visitors in the gallery—see pages 317 and 323 of Vol. IV of the Bengal Legislative Council Proceedings.

**Decision on  
points of order.**

**15.** (1) The President shall decide all points of order which may arise, and his decision shall be final.

[See s. 72D  
(5) of the  
Govt. of  
India Act.]

(2) Any member may at any time submit a point of order for the decision of the President, but in doing so shall confine himself to stating the point. (Rule 15.)

**Irrelevance or  
repetition.**

**16.** The President, after having called the attention of the Council to the conduct of a member who persists in irrelevance or in tedious repetition either of his own arguments or of the arguments used by other members in debate, may direct him to discontinue his speech. (Rule 16.)

[See s. 72D  
(5) of the  
Govt. of  
India Act.]

NOTE.—It is not in order for a member to read lengthy extracts from printed documents which have already been circulated to members—see page 205 of Volume XI, No. 4, of the Bengal Legislative Council Proceedings; see also page 931, *ibid*, Volume I.

**Power to order  
withdrawal of  
member.**

**17.** (1) The President shall preserve order and have all powers necessary for the purpose of enforcing his decisions on all points of order.

[See s. 72D  
(5) of the  
Govt. of  
India Act.]

(2) He may direct any member whose conduct is in his opinion grossly disorderly to withdraw immediately from the Council, and any member so ordered to withdraw shall do so forthwith and shall absent himself during the remainder of the day's meeting. If any member is ordered to withdraw a second time in the same session, the President may direct the member to absent himself from the

meetings of the Council for any period not longer than the remainder of the session, and the member so directed shall absent himself accordingly.

(3) The President may in the case of grave disorder arising in the Council suspend any sitting for a time to be named by him. (Rule 17.)

#### Arrangement of business.

[Secs. 72D  
(8) of the  
Govt. of  
India Act.]

18. The Governor, after considering the state of business of the Council, shall, at the commencement of each session, allot as many days as are in his opinion compatible with the public interests for the business of non-official members in the Council, and may from time to time during the session alter such allotment, and on these days such business shall have precedence. At all other times Government business shall have precedence. (Rule 6.)

Allotment of  
time for non-  
official  
business and  
precedence of  
business.

NOTE.—Non-official business cannot be taken up on a day reserved for Government business, even though Government business may have been concluded before the usual hour of adjournment on that day—see page 318 of Vol. VIII of the Bengal Legislative Council Proceedings.

19. (1) On the termination of a session all pending notices shall lapse and fresh notice must be given for the next session except in the case of any resolution on which a member has indicated his first priority and which remains undisposed of at the end of a session. Such resolution shall, if the member who has given notice of it intimates in writing before the holding of the ballot for the next session his desire to proceed with it, be carried over to the next session and shall, together with any amendments thereto of which notice has been given, be set down for discussion for such day or days as are available for non-official business in the order in which it stands and shall be given precedence to the resolutions to be balloted for for that session. The order of priority as settled by the ballot is final.

Business left  
over from  
session.

(2) On the termination of a session Bills which have been introduced shall be carried over to the pending list of business of the next session :

Provided that if the member in charge of a Bill makes no motion in regard to the same during two complete sessions, the Bill shall lapse, unless the Council on a motion by that member make a special order for the continuance of the Bill. (Standing Order 6.)

**Arrangement of  
business.**

**20.** (1) At times when Government business has precedence, the Governor may arrange that business in such order as he thinks fit.

(2) The relative precedence of notices of Bills and resolutions given by non-official members shall from time to time, except as provided in sub-section (1) of Standing Order 6, be determined by ballot in such manner as the President may direct.

**NOTE.**—For the orders of the President as to the manner of holding the ballot—see p. 271, *post*.

(3) Bills introduced by non-official members shall be arranged in such order as to give priority to the Bills most advanced, that is to say, in the following order :—

- (i) Bills which have reached a stage at which the next motion is a motion that the Bill be passed;
- (ii) Bills at which the next stage is a motion that the Bill be taken into consideration;
- (iii) Bills at which the next stage is the presentation of the report of the select committee.

(4) The relative precedence of other non-official Bills which have been introduced but which have not been proceeded with as far as the stages set out above shall be determined by ballot in such manner as the President may direct. (Standing Order 7.)

**NOTE.**—For the orders of the President as to the manner of holding the ballot—see p. 274, *post*.

**List of  
business.**

**21.** (1) A list of business for the day shall be prepared by the Secretary and shall be circulated to all members.

(2) No business not included in the list of business for the day shall be transacted at any meeting without the leave of the President. (Standing Order 8.)

**Business  
outstanding at  
end of day.**

**22.** All business appointed for any day and not disposed of on that day shall stand over until the next day of the session available for business of the class to which it belongs. (Standing Order 9.)

### **PART III.—Questions.**

[See section 72D (5) of the Government of India Act.]

**Time for  
questions.**

**23.** The first hour of every meeting shall be available for the asking and answering of questions. (Standing Order 10.)

**24.** A member who wishes to ask a question shall give fifteen days' notice of his intention and shall, together with the notice, submit a copy of the question he wishes to ask : **Notice of questions.**

Provided that the President may, with the consent of the member of the Government in charge of the Department to which the question pertains, allow a question to be put at shorter notice than fifteen days, or may extend the time for answering a question to a subsequent meeting:

Provided also that no member shall, unless he has obtained the special permission of the President, be permitted to send in notice of more than twelve questions during one session of the Council, exclusive of any questions that may have been postponed for reply from a previous session. (Standing Order 12.)

**NOTE.**—Questions should be sent to the Secretary written or typewritten on one side of the paper only.

Sec s. 72D  
of the  
Govt. of  
India Act.]

**25.** The President may within the period of notice disallow any question or any part of a question, on the ground that it relates to a matter which is not primarily the concern of the local Government, and, if he does so, the question, or part of the question, shall not be placed on the list of questions. (Rule 7.) **Power to disallow questions.**

**NOTE.**—In regard to questions touching on railways, it has been held that a general question relating to railways as a whole would be appropriate to the Imperial Council, while ordinarily it is permissible for any railway question affecting local interests to be put in the local Council. This also applies to postal and telegraph matters.

Sec s. 72D  
of the  
Govt. of  
India Act.]

**26.** (1) A question may be asked for the purpose of obtaining information on a matter of public concern within the special cognisance of the member to whom it is addressed : **Subject-matter of questions.**

Provided that no question shall be asked in regard to any of the following subjects, namely :—

- (i) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State;
- (ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to affairs of any such Prince or Chief or to the administration of the territory of any such Prince or Chief; and

(iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

(2) If any doubt arises whether any question is or is not within the restrictions imposed by sub-rule (1), the Governor shall decide the point, and his decision shall be final. (Rule 8.)

**Form and contents of questions.**

**27.** In order that a question may be admissible, it must satisfy the following conditions, namely:—

- (i) it must not bring in any name or statement not strictly necessary to make the question intelligible;
- (ii) if it contains a statement, the member asking it must make himself responsible for the accuracy of the statement;
- (iii) it must not contain arguments, inferences, ironical expressions or defamatory statements;
- (iv) it must not ask for expression of opinion or the solution of a hypothetical proposition;
- (v) it must not be asked as to the character or conduct of any person except in his official or public capacity; and
- (vi) it must not be of excessive length. (Standing Order 14.)

NOTE.—It is not in order for a member to ask a question based on a newspaper report.

**Questions regarding controversy with higher authorities.**

**28.** In matters which are or have been the subject of controversy between the Governor-General in Council or the Secretary of State and the local Government, no question shall be asked, except as to matters of fact, and the answer shall be confined to a statement of facts. (Rule 9.)

[See s. 72D (5) of the Govt. of India Act.]

**President to decide admissibility of question.**

**29.** The President shall decide on the admissibility of a question with reference to the provisions of Order 14 (Section 27) and shall disallow any question when, in his opinion, it is an abuse of the right of questioning, or is in contravention of those provisions. (Standing Order 15.)

**List of questions.**

**30.** Questions which have not been disallowed, shall be entered in the list of questions for the day, and shall be called, if the time made available for questions permits, in the order in which they stand in the list before any other business is entered upon at the meeting. Any

questions left over owing to time not being available shall be postponed to the next meeting of the Council, when they shall take precedence in the list. (Standing Order 16.)

**NOTE.**—(1) It is not right for a member to give publicity to a question of which he has given notice, unless and until it has been admitted and published in the question paper which is circulated by the Legislative Department.

(2) Questions are answered even though the member in whose name the questions stand is not present at the meeting.

**31.** A question addressed to a member of the Government must relate to the public affairs with which he is officially connected, or to a matter of administration for which he is responsible. (Standing Order 13.)

**Matters to which they must relate.**

**32.** Questions shall be put and answers given in such manner as the President may, in his discretion, determine. (Standing Order 17.)

**Questions how put.**

**NOTE.**—For the orders of the President as to the manner in which questions shall be put and answers given, see page 275, *post*.

**33.** The President, at the request of a member of the Government, may direct that an answer to a question may be given on the ground of public interest, even though the question is not put or the member in whose name it stands is absent. (Standing Order 18.)

**Answers to withdrawn questions.**

{See s. 72D  
(5) of the  
Govt. of  
India Act.}

**34.** Any member may put a supplementary question for the purpose of further elucidating any matter of fact regarding which an answer has been given :

**Supplementary questions.**

Provided that the President shall disallow any supplementary question if, in his opinion, it infringes the rules as to the subject-matter of questions. (Rule 10.)

**NOTE.**—A member is not entitled, when putting a supplementary question, to make a statement either before or after putting the question. He is limited to a request for further information which must be put in the form of a question—see page 18, of Volume XII of the Bengal Legislative Council Proceedings.

**35.** The member of the Government to whom a supplementary question is put may, if he is not prepared to give an answer immediately, ask for notice of the question, in which case the supplementary question shall be treated as a fresh question to be answered at a subsequent meeting of the Council. (Standing Order 19.)

**Member may ask for notice of supplementary question.**

**NOTE.**—When a supplementary question is asked at any meeting, and the member in charge declines to answer it without notice, the official reporter shall, after the meeting, read out his record to the member who asked the question, and shall make any necessary corrections in it.

The said record shall then be taken as notice of the supplementary question, and the question shall be dealt with as provided by the rules and standing orders, and, if not disallowed, shall be answered at a subsequent meeting of the council.

**Prohibition of discussion.**

**36.** No discussion shall be permitted in respect of any question or of any answer given to a question. (Standing Order 20.)

**PART IV.—Motions.**

**NOTE.**—Under the provisions of section 72B (4) of the Government of India Act all questions in the Bengal Legislative Council shall be determined by a majority of votes of the members present other than the person presiding, who shall, however, have and exercise a casting vote in the case of an equality of votes.

**Motions.**

**37.** (1) A matter requiring the decision of the Council is brought forward by means of a question put by the President on a motion proposed by a member.

(2) A member who wishes to move a motion (other than a motion for which a specified period is otherwise prescribed) shall give notice of his intention to the Secretary ten days before the meeting at which he intends to move the motion :

Provided that the President may, in his discretion admit at any time any motion at shorter notice than that prescribed by any order, or may admit a motion without notice.

(3) Votes may be taken by voices, by show of hands or by division, and shall be taken by division if any member so desires. The President shall determine the method of taking votes by division.

(4) The result of a division shall be announced by the President, and shall not be challenged. (Standing Order 30.)

**NOTE.**—(1) For the method of taking votes by division, determined by the President in accordance with Standing Order 30 (3) *see* p. 277, *post*.

(2) The division lists are published *in extenso* in the Proceedings of the Council.

(3) Under section 72B (4) of the Government of India Act, when there is an equality of votes, the person presiding has a casting vote.

(4) If a member votes in the wrong lobby by mistake, it is open to him to declare his mistake before the Chair declares the result of the division and such declaration will be duly recorded in the proceedings, but the division list and the result as declared by the Chair will not be affected by such declaration—*see* page 68 of Vol. XI, No. 2 of the Bengal Legislative Council Proceedings.

(5) It is not in order for a member to canvass for votes in the Council Chamber after a division has been ordered to be taken—*see* page 292 of Vol. VII, No. 1 of the Bengal Legislative Council Proceedings. •

(6) The procedure that is adopted in calling a division is as follows:—

The Chair reads out the motion to the Council and then adds the direction—"As many as are of that opinion will say 'Aye'; those of the contrary opinion will say 'No'."

The Chair then gives its opinion thus "I think the Ayes have it", or "I think the Noes have it". If a member desires a division he must claim it at this point. If no one rises, the Chair, after such interval as may appear to be suitable, declares the decision of the Council, and after that no division can be claimed.

(7) When a division has been claimed and called it must be taken. No motion for withdrawal of the claim for a division is permissible.

(8) When a member voted in both lobbies at a division, his vote was expunged from either side of the division lists—*see* page 292, Vol. VII, No. 1 of the Bengal Legislative Council Proceedings.

**38.** (1) Except as otherwise provided in the rules, the President shall decide on the admissibility of a motion. **Admissibility of motions.**

(2) The President may disallow any motion when, in his opinion, it does not comply with the rules or standing orders. (Standing Order 31.)

The President may disallow a motion at any time, even though such motion may appear on the List of Business—*see* page 89 of Vol. IX of the Bengal Legislative Council Proceedings, also page 136 of Vol. XI, No. 4, *ibid.*

**39.** A motion must not raise a question substantially identical with one on which the Council has given a decision in the same session. (Standing Order 32.) **Repetition of motions.**

**40.** Where substantially identical motions stand in the names of two or more members, the President shall decide whose motion shall be moved, and the other motions shall thereupon be deemed to be withdrawn. (Standing Order 33.) **Identical motions.**

**NOTE.**—Where there are identical or substantially identical motions, only the member who moves has the right of reply under section 41.

**41.** (1) When any member has made a motion, other members may speak to it in such order as the President may direct. **Order of speeches, right of reply and explanations; time-limit of speeches.**

**NOTE.**—A member who desires to speak must rise in his place and await the announcement of his name by the President.

(2) Except in the exercise of a right of reply or as otherwise provided, no member shall speak more than once to any motion, except with the permission of the President,



for the purpose of making a personal explanation, but in that case no debateable matter may be brought forward.

NOTE.—A member in offering a personal explanation is not entitled to make an argumentative speech or to ask questions—see page 524 of Vol. XI, No. 5 of the Bengal Legislative Council Proceedings.

(3) A member who has moved a substantive motion may speak again by way of reply, and if the motion is moved by a non-official member, the member of the Government to whose Department the matter relates shall have the right of speaking after the mover, whether he has previously spoken in the debate or not.

NOTE.—When a member moves an absent member's motion, it is for him to reply and not the absent member although the latter may have returned to the Chamber before the conclusion of the debate.

(4) Except with the permission of the President, no speech upon any motion shall exceed 15 minutes in duration :

Provided that the mover of a motion, when moving the same, and the member of Government in charge of the Department to which the motion relates, when speaking for the first time, may speak for 30 minutes. (Standing Order 34.)

NOTE.—(1) For the convenience of members the usual practice is to sound a bell as soon as any speaker exceeds the time-limit.

(2) When a member is permitted to move a motion in the absence of another member, any speech that he delivers will be his own. It is not permissible for him to read out the absent member's speech, see, page 682 of Vol. VII, No. 1, of the Bengal Legislative Council proceedings.

(3) When motions of members appear *in extenso* in papers which are in the hands of members, it is sufficient for a member, instead of reading out his motion, simply to say "I move my motion No." (here indicating the number of his motion on the paper)—see page 146, of Vol. XIII of the Bengal Legislative Council Proceedings.

#### Rules as to amendments.

42. (1) An amendment must be relevant to and within the scope of the question to which it is proposed.

(2) An amendment may not be moved which has merely the effect of a negative vote.

(3) After a decision has been given on an amendment to any part of a question, an earlier part shall not be amended.

(4) An amendment on a question must not be inconsistent with the previous decision on the same question given at the same stage of any Bill or motion.

(5) The President may refuse to put an amendment which is in his opinion frivolous. (Standing Order 35.)

#### Order of amendments.

43. (1) When an amendment to any motion is moved, or when two or more such amendments are moved, the President

shall, before taking the sense of the Council thereon, state or read to the Council the terms of the original motion and of the amendment or amendments proposed.

(2) It shall be in the discretion of the President to put first to the vote either the original motion or any of the amendments which may have been brought forward. (Standing Order 36.)

**44.** When any motion involving several points has been discussed, it shall be in the discretion of the President to divide the motion, and put each or any point separately to the vote as he may think fit. (Standing Order 37.)

**Division of motions.**

**45.** (1) A member who has moved a motion shall not withdraw the same, except by leave of the Council.

**Withdrawal of motions.**

(2) No discussion shall be permitted on a request for leave to withdraw, except with the permission of the President.

If the leave of Council has been given to withdraw a motion to which an amendment has been proposed, the mover of the amendment may forthwith move the motion in its amended form. (Standing Order 38.)

**NOTE.**—If it is the intention of a member at the outset to ask for leave to withdraw his motion, he is not in order in making a speech on the merits of his motion. He should restrict himself briefly to the reasons for his withdrawal; nor is it in order for a member to ask for leave to withdraw his motion conditionally—see page 13 of Vol. II of the Bengal Legislative Council Proceedings; also page 575 of Vol. V, *ibid*; also page 48 of Vol. VII, No. 5, *ibid*; also pages 209, 311 of Vol. XI, No. 5, *ibid*; also pages 237, 839 and 848 of Vol. I, *ibid*.

**46.** When any motion is under discussion, any member may move “that the question be now put,” and, unless it appears to the President that the request is an abuse of the rules of the Council, or an infringement of the rights of reasonable debate, the question “that the question be now put” shall be put forthwith. There shall be no debate on such motion. If such motion be carried by the votes of at least two-thirds of the members present and voting, the question shall be put accordingly :

**Closure.**

Provided that, in the case of motions relating to a Bill relating to a reserved subject, the member in charge of the Bill may request the President to put the question, and the President, if similarly satisfied that the request is not an abuse of the rules of the Council, or an infringement of the rights of reasonable debate, shall then put the question forthwith without taking the vote of the Council. (Standing Order 39.)

## PART V.—Legislation.

NOTE.—(1) For the general powers and limitations of the Bengal Legislative Council in the making of laws, *see*—

- (a) Sections 80A, 80C, 72D (4) and 72E of the Government of India Act.
- (b) Rule 2 of the Local Legislatures (Previous Sanction) Rules.
- (c) Rules 2 and 3 of the Reservation of Bills Rules.

(2) Under rule 3 (1) of the Devolution Rules, for the purpose of distinguishing the functions of local Governments and local legislatures of Governors' provinces from the functions of the Governor-General in Council and the Indian legislature, subjects shall in these provinces be classified in relation to the functions of Government as central and provincial subjects in accordance with the lists set out in Schedule I to the Devolution Rules.

(3) For the provincial subjects, which remain subject to legislation by the Indian legislature wholly or on certain defined points *see*—

Items 1, 3, 5, 6, 7, 10, 11, 14, 15, 17, 19, 20, 21, 22, 26, 28, 29, 30, 31, 33, 34, 37, 38, 39, 45, 47 and 50 of Schedule I, Part II of the Devolution Rules.

(4) For the powers of the Bengal Legislative Council to make laws imposing taxation—*see* The Scheduled Taxes Rules 2 and 3.

(5) For legislation regarding backward tracts—*see* Notification No. 2-G., dated the 3rd January, 1921.

### Publication of Bills.

**47.** The Governor may order the publication of any Bill (together with the Statement of Objects and Reasons accompanying it) in the Gazette, although no motion has been made for leave to introduce the Bill. In that case it shall not be necessary to move for leave to introduce the Bill, and, if the Bill is afterwards introduced, it shall not be necessary to publish it again. (Rule 18.)

[See s. 72D (5) of the Govt. of India Act.]

### Notice of motion for leave to introduce Bills.

**48.** (1) Any member, other than a member of the Government, desiring to move for leave to introduce a Bill shall give notice of his intention, and shall, together with the notice, submit copy of the Bill and a full Statement of Objects and Reasons.

(2) If the Bill is a Bill which under the Government of India Act requires sanction, the member shall annex to the notice a copy of such sanction, and the notice shall not be valid until this requirement is complied with.

[See s. 80A of the Govt. of India Act and the Local Legislatures (Previous Sanction) Rules.]

(3) If any question arises whether a Bill is or is not a Bill which requires sanction under the Government of India Act, the question shall be referred to the authority which would have power to grant the sanction if it were necessary, and the decision of the authority on the question shall be final.

(4) The period of notice of a motion for leave to introduce a Bill under this rule shall be as follows, namely :—

- (a) if the Bill relates to a transferred subject, fifteen days;
- (b) if the Bill relates to a reserved subject, one month or, if the Governor so directs, a further period not exceeding in all two months. (Rule 19.)

**NOTE.**—(1) For the Schedule of transferred subjects, see Sch. II to the Devolution Rules.

(2) It is the practice to treat all papers relating to a Bill as confidential until—

- (i) it has been introduced in Council, or
- (ii) it has been published before introduction in the *Calcutta Gazette* under rule 18 (section 47) of the Bengal Legislative Council Rules, 1920, *ante*, p. 16, or,
- (iii) if Government so decide, public opinion is invited on the Bill before introduction.

**49.** As soon as may be after a Bill has been introduced, the Bill, unless it has already been published, shall be published in the Gazette. (Rule 20.) **Publication.**

**50.** (1) If a motion for leave to introduce a Bill is opposed, the President, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from the member who opposes the motion, may, without further debate, put the question thereon. **Motions for leave to introduce a Bill.**

(2) If such motion be carried, the Secretary shall read the title of the Bill, and the Bill shall thereupon be deemed to be introduced in Council. (Standing Order 42.)

#### (a) Motions after introduction.

**51.** When a Bill is introduced, or on some subsequent occasion, the member in charge may make one of the following motions in regard to the Bill, namely :— **Motions after introduction.**

- (a) that it be taken into consideration by the Council either at once or at some future day to be then mentioned, or
- (b) that it be referred to a select committee, or
- (c) that it be circulated for the purpose of eliciting opinion thereon :

Provided that no such motion shall be made until after copies of the Bill have been made available for the use of members, and that any member may object to any such motion being made, unless copies of the Bill have been so available for seven days before the motion is made, and such objection

shall prevail, unless the President in exercise of his power to suspend this order allows the motion to be made. (Standing Order 43.)

NOTE.—(1) Steps are usually taken (if thought necessary) to circulate Bills for opinion immediately after their introduction and without any motion being made under clause (c), and sometimes to circulate it before introduction, once the Bill is published under rule 18 (section 47), page 252, *ante*.

(2) The Legislative Department also, when time permits, prepares a collection of opinions showing—

- (i) the existing law, if any,
- (ii) the clauses of the Bill, and
- (iii) the opinions on each clause *verbatim*.

This Collection is sent to every member of the Legislative Council and to the Administrative Department concerned.

#### Discussion of Bills.

52. (1) On the day on which any such motion is made, or on any subsequent day to which the discussion is postponed, the principle of the Bill and its general provisions may be discussed, but the details of the Bill must not be discussed further than is necessary to explain its principle.

(2) At this stage no amendments to the Bill may be moved, but—

- (a) if the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be referred to a select committee or be circulated for the purpose of eliciting opinion thereon before a date to be mentioned in the motion, or
- (b) if the member in charge moves that the Bill be referred to a select committee, any member may move as an amendment that the Bill be circulated for the purpose of eliciting opinion.

(3) Where a motion that the Bill be circulated for the purpose of eliciting opinion is carried in the Council, and the Bill is circulated in accordance with that direction, and opinions have been received thereon before the date mentioned in the motion, the member in charge, if he wishes to proceed with the Bill thereafter, must move that the Bill be referred to a select committee, unless the President in the exercise of his power to suspend this order allows a motion to be made that the Bill be taken into consideration. (Standing Order 44.)

53. If the Governor certifies that a Bill or any clause of a Bill or any amendment to a Bill affects the safety or tranquillity of a province or any part thereof, and directs

Effect of certification by Governor.

[See s. 72D (4) of the Govt. of India Act.]

that no proceedings or no further proceedings shall be taken thereon, all notices of motions in connection with the subject-matter of the certificate shall lapse, and if any such motion has not already been set down on the list of business, it shall not be so set down. If any such motion has been set down on the list of business, the President shall, when the motion is reached, inform the Council of the Governor's action, and the Council shall forthwith without debate proceed to the next item of business. (Rule 21.)

[For Definition of Select Committee, see Definitions, Standing Order 2 (11) at page 2, ante.]

54. (1) The member of the Government in charge of the Department to which a Bill relates, and the member who introduced the Bill shall be members of every select committee.

Select committees.

(2) The other members of the committee shall be named in the motion proposing the appointment of the committee.

(3) The member of the Government in charge of the Department to which the Bill relates shall ordinarily be Chairman of the committee, and, in the case of an equality of votes, the Chairman shall have a second or casting vote.

(4) A select committee may hear expert evidence and representatives of special interests affected by the measure before them. (Standing Order 40.)

NOTE.—(1) In the case of official members [other than the member of the Government referred to in clause (1) above] no name should be proposed unless it has been previously submitted to and approved by the Governor; nor is it proper for any member to place the name of any other member on a select committee without the latter's authority.

(2) For the attendance and examination of witnesses, see—the Bengal Legislative Council (Witnesses) Act, 1866, (Ben. Act III of 1866).

55. All proceedings of a select committee shall be treated as confidential, and its recommendations shall not be disclosed until the report has been made available for the use of each member or has been published in the local official gazette. (Standing Order 41.)

Proceedings of select committee to be treated as confidential.

#### (b) Reports by select committees.

56. (1) When a Bill has been referred to a select committee, the committee shall make a report thereon.

Reports by select committee.

(2) Reports may be either preliminary or final.

(3) The select committee shall, in their report, state whether or not, in their judgment, the Bill has been so altered as to require re-publication, whether the publication directed by the rules or by the Council has taken place, and the date on which the publication has taken place, or, where publication

in more than one language is ordered, the date on which the publication in each such language has taken place.

(4) If any member of a select committee desires to record a minute of dissent on any point, he must sign the majority report, stating that he does so subject to his dissent, and must at the same time hand in his minute.

(5) Every such minute of dissent must be confined to a discussion of matter contained in the report, and must be free from personal remarks. (Standing Order 45.)

NOTE.—(1) When a Bill has been settled in select committee, the drafting is revised and the report is written by the Secretary, and the revised Bill and the report are submitted to the member in charge for his approval. When he approves, and has signed the report, the practice almost always adopted is for the Secretary to send the Bill and the report (with the signature of the member in charge attached) or a copy of the report with the signature of the member in charge copied thereon, to the other members of the committee for their signature, without calling any meeting to consider the revised Bill or the report. In this way proceedings are expedited, and expedition is necessary because there is often but little time left for the printing of a Bill before it has to be brought forward in Council. If there is anything in the Bill or report to which a signatory desires to take exception, it is open to him to write a minute of dissent and sign the report "subject to his minute of dissent," or to ask the member in charge to call another meeting to consider the special point or points in question.

(2) It is usual for the Council, in referring a Bill to select committee, to instruct the committee to submit their report either—

(i) in time for its presentation in Council at the next (or later) meeting,  
or

(ii) in time for its consideration in Council at the next (or later) meeting.

(3) The ordinary procedure is for a select committee to report on the whole Bill.

(4) It is not permissible in a minute of dissent to discuss the composition of the select committee. The time to do this is when the motion for reference of the Bill to select committee is being made under Standing Order 43 (section 51), p. 253, *ante*.

**Printing and  
publication  
of reports.**

**57.** (1) The Secretary shall cause every report of a select committee to be printed, and a copy of the report shall be made available for the use of each member. The report, with the amended Bill, shall be published in the local official gazette.

(2) If any member is unacquainted with English, the Secretary shall also, if requested, cause the report to be translated for his use into such vernacular language as the President may direct. (Standing Order 46.)

NOTE.—(1) The Bill, as amended by the select committee, is usually annexed to the report.

(2) The proceedings of select committees not being published, it does not appear to be right for any member to refer in Council to anything that happens in select committee, save and except that which appears in the select committee's report.

**58.** (1) Every report by a select committee on a Bill shall be presented to the Council by the Chairman of the committee

**Presentation of report and procedure after presentation.**

(2) In presenting a report the member in charge shall, if he makes any remarks, confine himself to a brief statement of fact.

(3) After the presentation of the final report, the member in charge may move—

(i) that the Bill as reported by the select committee be taken into consideration, but any member may object to its being so taken into consideration if a copy of the report has not been available for the use of members for seven days, and such objection shall prevail, unless the President in exercise of his power to suspend this order allows the report to be taken into consideration; or

(ii) that the Bill be re-committed either—

(a) without limitation, or

(b) with respect to particular clauses or amendments only, or

(c) with instructions to the select committee to make some particular or additional provision in the Bill.

(4) If the member in charge moves that the Bill be taken into consideration, any member may move as an amendment that the Bill be re-committed. (Standing Order 47.)

**(c) Consideration and amendment of Bills.**

**59.** When a motion has been agreed to by the Council that a Bill be taken into consideration, any member may propose an amendment of such Bill. (Standing Order 48.)

**Proposal of amendments.**

**60.** (1) Any member who wishes to move an amendment to any Bill under the consideration of the Council shall send written notice thereof to the Secretary so as to reach him at least ten days before the first day on which the Bill is to be taken into consideration by the Council, and shall, together with the notice, send a copy of the amendment which he desires to move.

**Notice of amendments.**

(2) The Secretary shall, if time permits, cause every notice of a proposed amendment to be printed, and a copy shall be made available for the use of each member.



(3) If any member present is unacquainted with English, the Secretary shall also, if requested, and if time permits, cause every such notice to be translated into such vernacular language as the President may direct. (Standing Order 49.)

**Order of amendments.**

**61.** Amendments shall ordinarily be considered in the order of the clauses to which they respectively relate. (Standing Order 50.)

**Submission of Bill clause by clause.**

**62.** Notwithstanding anything in the foregoing orders, it shall be in the discretion of the President, when a motion that a Bill be taken into consideration has been carried, to submit the Bill, or any part of the Bill, to the Council clause by clause. When this procedure is adopted, the President shall call each clause separately, and, when the amendments relating to it have been dealt with, shall put the question "that this clause, or (as the case may be) this clause as amended, stand part of the Bill." (Standing Order 51.)

**Passing of Bills.**

**63.** (1) If no amendment be made when a motion that a Bill be taken into consideration has been agreed to by the Council, the Bill may at once be passed.

(2) If any amendment be made, any member may object to the passing of the Bill at the same meeting; and such objection shall prevail, unless the President in exercise of his power to suspend this order allows the motion that the Bill be passed to be made.

(3) Where the objection prevails, the Bill shall be brought forward again at a future meeting; and may then be passed with or without further amendment. (Standing Order 52.)

**NOTE.**—When a Bill is introduced in Council, the clauses are numbered throughout in consecutive order. When clauses are struck out, or new clauses inserted by the select committee, alterations in the numbers of the other clauses become necessary and these involve alterations also in cross-references. It is, however, often convenient to retain the original clause numbers, disregarding gaps caused by the omission of clauses, and giving supplemental numbers (such as 60A, 60B, and so on) to new clauses, the Bill, as amended by the select committee, being presented to the Council in this form.

**Formal revision of Bill and submission of it to President for authentication.**

**64.** When a Bill is passed by the Council, the Secretary shall, if necessary, re-number the clauses, revise and complete the marginal notes thereof and make such purely formal consequential amendments therein as may be required, and a copy of the Bill shall be submitted to the President, and shall be signed by him. (Standing Order 53.)

## RESOLUTIONS.

[See s. 81 of  
the Govt. of  
India Act.]

**65.** (1) When a Bill as passed in Council has been signed by the President, it shall be submitted to the Governor for his assent, and, if assented to by him, the Act shall be submitted to the Government of India for the assent of the Governor-General.

**Assent to Bill  
and publication  
of Bill as Act.**

(2) If the Governor-General assents to an Act, it shall be published in the local official Gazette as an Act of the Governor in Council of Fort William in Bengal assented to by the Governor-General. (Standing Order 54.)

[See s. 81A  
of the Govt.  
of India  
Act.]

**66.** When a Bill which has been passed is returned by the Governor to the Council for re-consideration, the point or points referred for re-consideration shall be put before the Council by the President, and shall be discussed and voted upon in the same manner as amendments to a Bill. (Standing Order 55.)

**Procedure  
when Bill is  
returned by  
Governor for  
reconsideration**

**67.** The member in charge of a Bill may at any stage of the Bill move that the Bill be withdrawn, and, if such motion be carried, the Bill shall be withdrawn accordingly. (Standing Order 56.)

**Withdrawal of  
Bill.**

**68.** Communications on matters connected with any Bill before the Council must be addressed to the Secretary. (Standing Order 57.)

**Communications  
as to Bills.**

**69.** The Secretary shall, if time permits, cause such communications to be printed, and send a copy to each member, and shall also refer them to the select committee sitting on any Bill to which they may relate. (Standing Order 58.)

**Circulation of  
communications.**

**NOTE.**—In the case of miscellaneous petitions addressed to the President or to the Council, the usual practice is to lay such petitions on the library table for the information of members.

## PART VI.—Resolutions.

**70.** A member who wishes to move a resolution shall give twenty-one days' notice of his intention, and shall, together with the notice, submit a copy of the resolution which he wishes to move :

**Notice of  
resolutions.**

Provided that the President, with the consent of the member of the Government in charge of the Department concerned, may allow a resolution to be entered on the list of business at shorter notice than twenty-one days:

Provided also that no member shall, unless he has obtained the special permission of the President, be permitted to send in notice of more than three resolutions during one session of the Council, exclusive of any resolution carried over under the provisions of Standing Order 6. (Standing Order 63.)

NOTE.—It is not right for a member to give publicity to a resolution of which he has given notice, unless and until it has been published in the List of Business, which is circulated by the Legislative Department.

**Power to  
disallow  
resolutions.**

**71.** (1) The Governor may within the period of notice disallow any resolution, or any part of a resolution, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the local Government, and, if he does so, the resolution, or part of the resolution, shall not be placed on the list of business.

[See s. 72(1)  
(5) of the  
Govt. of  
India Act.]

(2) The Governor may disallow on grounds as aforesaid, any motion for adjournment under rule 11 (section 79), notwithstanding the consent of the President, and, if he does so, the adjournment shall not be permitted by the President, and no further discussion of the motion shall take place. (Rule 22.)

**Restrictions on  
subjects for  
discussion.**

**72.** (1) Every resolution shall be in the form of a specific recommendation addressed to the Government, and no resolution shall be moved in regard to any of the following subjects, namely:—

[See s. 72(1)  
(5) of the  
Govt. of  
India Act.]

- (i) any matter affecting the relations of His Majesty's Government, or of the Government of India, or of the Governor or the Governor in Council, with any foreign State;
- (ii) any matter affecting the relations of any of the foregoing authorities with any Prince or Chief under the suzerainty of His Majesty, or relating to the affairs of any such Prince or Chief, or to the administration of the territory of any such Prince or Chief; and
- (iii) any matter which is under adjudication by a Court of Law having jurisdiction in any part of His Majesty's Dominions.

(2) The decision of the Governor on the point whether any resolution is or is not within the restrictions imposed by sub-rule (1) shall be final. (Rule 23.)

**Form and  
contents of  
resolution.**

**73.** Subject to the restrictions contained in the rules and the provisions of the standing orders, any member

may move a resolution relating to a matter of general public interest:

Provided that no resolution shall be admissible which does not comply with the following conditions, namely:—

- (a) it shall be clearly and precisely expressed and shall raise a definite issue; and
- (b) it shall not contain arguments, inferences, ironical expressions or defamatory statements, nor shall it refer to the conduct or character of persons except in their official or public capacity. (Standing Order 64.)

**74.** (1) A member in whose name a resolution appears on the list of business shall, when called on, either— **Procedure on motion to withdraw.**

- (a) withdraw the resolution, in which case he shall confine himself to a mere statement to that effect, but may make such brief statement of his reasons for withdrawal as he may consider necessary; or
- (b) move the resolution, in which case he shall commence his speech by a formal motion in the terms appearing in the list of business.

(2) If the member when called on is absent, the resolution standing in his name shall be considered to have been withdrawn:

Provided that the President, in his discretion, may allow another member to move such resolution, or may postpone it. (Standing Order 65.)

**75.** The discussion of a resolution shall be strictly limited to the subject of the resolution. (Standing Order 66.) **Limits of discussion.**

**76.** When a resolution is under discussion, any member may, subject to all the rules and orders relating to resolutions, move an amendment to such resolution. (Standing Order 67.) **Amendments.**

**77.** (1) If a copy of such amendment has not been sent to the Secretary seven days before the day fixed for the discussion of the resolution, any member may object to the moving of the amendment, and such objection shall prevail, unless the President in exercise of his power to suspend this order allows the amendment to be moved. **Notice of amendment.**

(2) The Secretary shall, if time permits, cause every amendment to be printed, and send a copy for the information of each member. (Standing Order 68.)

Copy to  
Government.

**78.** A copy of every resolution which has been passed by the Council shall be forwarded to the Government, but any such resolution shall have effect only as a recommendation to the Government. (Rule 24.)

[See s. 72D  
(5) of the  
Govt. of  
India Act.]

NOTE.—It shall be the duty of the Legislative Department to exhibit, for the information of members, in the lobby of the Council Chamber, a list of resolutions carried in the Bengal Legislative Council, from time to time, together with a brief note showing the action taken by Government on each such resolution.

### **PART VII.—Motions for adjournment for purposes of debate.**

Motions for  
adjournments.

**79.** A motion for an adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance may be made with the consent of the President. (Rule 11.)

[See s. 72D  
(5) of the  
Govt. of  
India Act.]

NOTE.—Under the provisions of rule 22 (2) (section 71) the Governor may disallow, on the ground that it cannot be moved without detriment to the public interest, or on the ground that it relates to a matter which is not primarily the concern of the local Government, any motion for adjournment under rule 11, notwithstanding the consent of the President, and if he does so, the adjournment shall not be permitted by the President, and no further discussion of the motion shall take place.

Restrictions on  
power to make  
motion.

**80.** The right to move the adjournment of the Council for the purpose of discussing a definite matter of urgent public importance shall be subject to the following restrictions, namely :—

[See s. 72D  
(5) of the  
Govt. of  
India Act.]

- (i) not more than one such motion shall be made at the same sitting;
- (ii) not more than one matter can be discussed on the same motion, and the motion must be restricted to a specific matter of recent occurrence;
- (iii) the motion must not revive discussion on a matter which has been discussed in the same session;
- (iv) the motion must not anticipate a matter which has been previously appointed for consideration, or with reference to which a notice of motion has been previously given; and
- (v) the motion must not deal with a matter on which a resolution could not be moved. (Rule 12.)

**81.** Leave to move a motion for the adjournment of the business of the Council for the purpose of discussing a definite matter of urgent public importance must be asked for after questions and before the list of business for the day is entered upon. (Standing Order 21.) Time of asking leave.

**82.** The member asking leave must hand to the President a written statement of the matter proposed to be discussed, and must annex thereto the consent of the President, in writing, to his motion. (Standing Order 22.) Method of asking leave.

**83.** If the President is of opinion that the matter proposed to be discussed is in order, and if it has not been disallowed by the Governor under rule 22(2) (section 71), the President shall read the statement to the Council, and ask whether the member has the leave of the Council. If no objection is taken, the President shall intimate the hour at which the motion will be taken. If objection is taken, he shall request those members who support the motion to rise in their places, and, if not less than thirty members rise accordingly, he shall similarly intimate the hour. If less than thirty members rise, the President shall inform the member that he has not the leave of the Council. (Standing Order 23.) Procedure to be followed.

**NOTE.**—When once a motion for the adjournment of the Council for purposes of debate has been allowed, and a date and hour fixed, it cannot be postponed—see page 94, Vol. V, of the Bengal Legislative Council Proceedings.

**84.** (1) The debate on a motion to discuss a matter of urgent public importance if not earlier concluded shall automatically terminate at the end of two hours, and thereafter no question can be put. Limitation of time of discussion.

(2) No speech during the debate shall exceed fifteen minutes in duration. (Standing Order 24.)

## PART VIII.—Budget.

**NOTE.**—For the general powers of the Bengal Legislative Council in regard to the budget, see section 72D (2) and (3) of the Government of India Act and Part II (Financial Arrangements) of the Devolution Rules under the Government of India Act.

(See s. 72D  
(2) of the  
Govt. of  
India Act.)

**85.** A statement of the estimated annual expenditure and revenue of the province (hereinafter referred to as “the budget”) shall be presented to the Council on such day as the Governor may appoint. (Rule 25.) The budget.

**Discussion of budget.**

**86.** No discussion of the budget shall take place on the day on which it is presented. (Standing Order 69.)

**Demands for grants.**

**87.** (1) A separate demand shall ordinarily be made in respect of the grant proposed for each department of the Government, provided that the Finance Member may in his discretion include in one demand grants proposed for two or more departments, or make a demand in respect of expenditure, such as Famine Relief and Insurance and Interest, which cannot readily be classified under particular departments. Demands affecting reserved and transferred subjects shall, so far as may be possible, be kept distinct.

[See s. 72D (2) and (3) of the Govt. of India Act.]

(2) Each demand shall contain, first, a statement of the total grant proposed, and then a statement of the detailed estimate under each grant, divided into items.

(3) Subject to these rules, the budget shall be presented in such a form as the Finance Member may consider best fitted for its consideration by the Council. (Rule 26.)

**Stages of the budget debate.**

**88.** The budget shall be dealt with by the Council in two stages, namely:—

[See s. 72D (2) of the Govt. of India Act.]

(i) a general discussion; and

(ii) the voting of demands for grants. (Rule 27.)

**General discussions.**

**89.** (1) On a day to be appointed by the Governor subsequent to the day on which the budget is presented and for such time as the Governor may allot for this purpose, the Council shall be at liberty to discuss the budget as a whole or any question of principle involved therein, but no motion shall be moved at this stage, nor shall the budget be submitted to the vote of the Council.

[See s. 72D (2) of the Govt. of India Act.]

(2) The Finance Member shall have a general right of reply at the end of the discussion.

(3) The President may, if he thinks fit, prescribe a time-limit for speeches. (Rule 28.)

NOTE.—The procedure is for non-official members to speak first and then for the various official members to reply to the debate so far as their departments are affected. When once the official members have commenced their replies, no further speeches by non-official members are permitted—see page 42 of Vol. VII, No. 3, of the Bengal Legislative Council Proceedings.

**Voting of grants.**

**90.** (1) Not more than twelve days shall be allotted by the Governor for the discussion of the demands of the local Government for grants.

[See s. 72D (2) of the Govt. of India Act.]

(2) Of the days so allotted, not more than two days shall be allotted by the Governor to the discussion of any one demand. As soon as the maximum limit of time for

discussion is reached, the President shall forthwith put every question necessary to dispose of the demand under discussion.

(3) On the last day of the allotted days at 5 o'clock the President shall forthwith put every question necessary to dispose of all the outstanding matters in connection with the demands for grants. (Rule 29.)

NOTE.—It is not permissible for a member to discuss the allotment of time fixed by His Excellency—see page 279 of Vol. VIII of the Bengal Legislative Council Proceedings.

[See s. 72D  
(2) of the  
Govt. of  
India Act.]

**91.** (1) No motion for appropriation can be made, except on the recommendation of the Governor communicated to the Council.

Motions at this stage.

(2) Motions may be moved at this stage to omit or reduce any grant or any item in a grant, but not to increase or alter the destination of a grant.

(3) When several motions relating to the same demand are offered, they shall be discussed in the order in which the heads to which they relate appear in the budget.

(4) No motions shall be made for the reduction of a grant as a whole until all motions for the omission or reduction of definite items within that grant have been discussed. (Rule 30.)

NOTE.—(1) A member can speak in opposition to a general demand even though no motions for reduction or refusal have been tabled—see page 207 of Vol. VII, No. 3, of the Bengal Legislative Council Proceedings.

(2) A motion to reduce a demand, to be in order, must specify a definite sum for reduction.

The proper form is as follows:—

“That the demand of Rs. 10,000 in respect of ..... be reduced by the sum of Rs. 4,000.”

It is out of order to move “That the demand of Rs. 10,000 be reduced to Rs. 6,000.”

(See pages 127, 179, 213, 359 of Vol. XI, No. 5 of the Bengal Legislative Council Proceedings.)

**92.** If the local Government or the Governor exercises the power conferred by section 72D (2), provisos (a) and (b), of the Government of India Act in regard to demands refused or reduced by the Council, the Finance Member shall, as soon as may be thereafter, lay on the table of the Council a statement showing the action taken by the local Government, together, in the case of action under section 72D (2), proviso (a), with a copy of the certificate granted by the Governor, but no motion may be made in regard to that action. (Standing Order 71.)

Restoration of grants by local Government.



**Excess grants.**

**93.** When money has been spent on any service for which the vote of Council is necessary during any financial year in excess of the amount granted for that service and for that year, a demand for the excess shall be presented to the Council by the Finance Member, and shall be dealt with in the same way by the Council as if it were a demand for a grant. (Rule 31.)

[See s. 72 F (2) and (6) of the Govt. of India Act.]

**Supplementary or additional grants.**

**94.** (1) An estimate shall be presented to the Council for a supplementary or additional grant when—

[See s. 72 D (2) and (6) of the Govt. of India Act.]

- (i) the amount voted in the budget of a grant is found to be insufficient for the purposes of the current year; or
- (ii) a need arises during the current year for expenditure for which the vote of the Council is necessary upon some new service not contemplated in the budget for that year.

(2) Supplementary or additional estimates shall be dealt with in the same way by the Council as if they were demands for grants. (Rule 32.)

**Committee on public accounts.****Constitution of committee on public accounts.**

**95.** (1) As soon as may be after the commencement of each financial year, a committee on public accounts shall be constituted for the purpose of dealing with the audit and appropriation accounts of the province and such other matters as the Finance Department may refer to the committee.

[See s. 72 D (5) of the Govt. of India Act.]

(2) The committee on public accounts shall consist of such number of members as the Governor may direct, of whom not less than two-thirds shall be elected by the non-official members of the Council according to the principle of proportionate representation by means of the single transferable vote. The remaining members shall be nominated by the Governor.

(3) The Finance Member shall be Chairman of the committee, and, in the case of an equality of votes on any matter, shall have a second or casting vote. (Rule 33.)

**Method of election of members of the committee on public accounts.**

**96.** The President shall make regulations governing the method of election by single transferable vote of the members of the committee on public accounts referred to in rule 33 (section 95). (Standing Order 70.)

NOTE.—For the regulations made by the President under this standing order—see page 279, *post*.

[See s. 72D  
(8) of the  
Govt. of  
India Act.]

**97.** (1) In scrutinising the audit and appropriation accounts of the province, it shall be the duty of the committee to satisfy itself that the money voted by the Council has been spent within the scope of the demand granted by the Council.

Control of  
committee on  
public accounts.

(2) It shall be the duty of the committee to bring to the notice of the Council—

- (i) every re-appropriation from one grant to another grant;
- (ii) every re-appropriation within a grant which is not made in accordance with the rules regulating the functions of the Finance Department, or which has the effect of increasing the expenditure on an item the provision for which has been specifically reduced by a vote of the Council; and
- (iii) all expenditure which the Finance Department has requested should be brought to the notice of the Council. (Rule 34.)

## PART IX.—Amendment of standing orders.

[See s. 72D  
(8) of the  
Govt. of  
India Act.]

**98.** A motion for leave to amend the standing orders shall be set down for such day as the President may direct. (Standing Order 59.)

Notice of  
proposal to  
amend the  
standing orders.

**99.** When the motion is reached, the President shall read the draft amendments and ask whether the member has the leave of the Council. If objection is taken, the President shall request those members who support the motion to rise in their places, and, if not less than thirty members rise accordingly, the President shall intimate that the member has the leave of the Council. If less than thirty members rise, the President shall inform the member that he has not the leave of the Council. (Standing Order 60.)

Procedure.

**NOTE.**—The mover of a motion for the amendment of the Standing Orders is permitted to make a brief statement as to the reasons for moving his motion, but no further debate is allowed—see page 168 of Vol. VIII of the Bengal Legislative Council Proceedings.

**100.** Where a member has the leave of the Council to proceed, the draft amendments shall be referred to a select committee, of which the President shall be Chairman, and of which the Deputy President and a Chairman of the Council to be nominated by the President shall be members. The remaining members,

Reference to  
select  
committee.

**268 AMENDMENT OF STANDING ORDERS; COMMUNICATION  
BETWEEN GOVERNOR AND COUNCIL; NOTICES;  
MISCELLANEOUS.**

who shall be seven in number, shall be selected by the Council by means of the single transferable vote in accordance with the regulations framed in this behalf by the President. (Standing Order 61.)

NOTE.—For the regulations framed by the President under this standing order, see page 230, *post*.

**Subsequent  
procedure.**

**101.** After a draft has been referred to a select committee, the procedure in regard to Bills similarly committed shall, as far as may be, be followed with such necessary alterations as to the form of the motions that may be made as the President may direct. (Standing Order 62.)

**Communication between Governor and Council.**

**Communication  
with the  
Governor.**

**102.** Communications from the Council to the Governor shall be made—

- (1) by formal address, after motion made and carried in the Council; and
- (2) through the President. (Standing Order 72.)

NOTE.—Under section 72A(1) of the Government of India Act the Governor has the right of addressing the Council, and may for that purpose require the attendance of its members.

**Notices.**

**Giving of notice.**

**103.** (1) Every notice required by the rules or standing orders shall be given in writing, addressed to the Secretary, and may be left at the Council office, which shall be open for this purpose between the hours of 11 and 3 o'clock on every day, except Sunday or a public holiday, or may be posted.

(2) Notices left, or delivered by post, when the office is closed shall be treated as given on the next open day. (Standing Order 11.)

**PART X.—Miscellaneous.**

**Journal.**

**104.** (1) The Secretary shall keep a journal, in which a short record of the proceedings of the Council for each day shall be fairly entered.

(2) The journal shall be submitted after each meeting to the President for his confirmation and signature; and, when so signed, shall be the record of the proceedings of the Council. (Standing Order 73.)

**105.** (1) The Secretary shall also cause to be prepared a full report of the proceedings of the Council at each of its meetings, and publish it as soon as practicable. **Full report of proceedings.**

(2) He shall send a copy of such report to each member of the Council and to the Permanent Under-Secretary of State for India. (Standing Order 74.)

**NOTE.**—(1) It is the duty of the Secretary under Regulations I. to LII of the Regulations for the election of members of the Bengal Legislative Council, to keep in safe custody the ballot papers of elections.

Similarly, under the orders contained in Bengal Government Notification No. 3311-A. D., dated the 12th October, 1920, the Secretary to the Council shall prepare and maintain a record of candidates nominated for election.

**NOTE.**—(2) In addition to the other duties specially imposed upon him by the rules and standing orders, it is the duty of the Secretary—

- (1) to draft all Bills originated by the Government of Bengal and the reports of select committees to which such Bills are referred, to settle the Statements of Objects and Reasons appended to such Bills, and to prepare the notes on clauses (if any);
- (2) to take charge of the copies of Bills signed by the Governor and Governor-General, and of all other records of the Council;
- (3) to keep the books of the Council;
- (4) to keep a list of the business for the time being before the Council;
- (5) to superintend the printing of all papers printed in pursuance of these rules and standing orders;
- (6) to make out from time to time a list of all select committees' sittings;
- (7) to assist the Council and all committees in such manner as they may direct;
- (8) to examine all Bills deposited by members, and to report to the President any such Bill which contains clauses trenching on subjects coming within section 80A of the Government of India Act;
- (9) to write all letters which the Council or the President or any select committee directs to be written; and
- (10) to record speeches delivered in the vernacular in the manner indicated in the note to section 11 on page 241, *ante*.

**106.** The admission to the Council Chamber of—

- (1) visitors to the visitors' gallery,
- (2) representatives of the Press to the Press gallery,  
and
- (3) officials

**Admission of strangers.**

during the sittings of Council shall be regulated in accordance with orders made by the President with the previous sanction of the Governor. (Standing Order 75.)

**NOTE.**—For the orders made by the President under this standing order—see page 281, *post*.

**107.** The President, whenever he thinks fit, may order the galleries to be cleared. (Standing Order 76.) **Power to order withdrawal of strangers.**

**Manner of the holding of ballot for the election of  
Deputy President.**

[See Standing Order 4 (section 4), p. 240, *ante*.]

In exercise of the power conferred by Standing Order No. 4 (section 4) of the Bengal Legislative Council Standing Orders, 1920, the President is pleased to prescribe the following procedure for the election of a member to be the Deputy President of the Council, namely :—

1. On the day of the meeting at which the election is to be held, when notices have been handed in to the President under Standing Order No. 4(2) (ii), the President, after reading out in Council the names of the candidates, together with those of their proposers and seconders, shall, if more than one candidate has been nominated, direct the Secretary to distribute a ballot paper containing a list of the candidates among the members present.

2. (i) Each member desiring to vote shall then proceed to record his vote by affixing a cross opposite the name of the candidate whom he desires to be elected, and shall place the ballot paper in the ballot box.

(ii) No member can vote for more than one candidate.

(iii) When all the members have recorded their votes, the Secretary shall open the ballot box in the presence of the President, who, after rejecting such ballot papers as do not conform to instructions 2 (i) and 2 (ii), shall proceed to count the remaining ballot papers, and shall declare the person who has the majority of votes to be duly elected.

**Manner of determining by ballot the relative precedence  
of notices of Bills and Resolutions.**

[See Standing Order 7(2) (section 20), p. 244, *ante*.]

In exercise of the power conferred by Standing Order No. 7 (2) (section 20) of the Bengal Legislative Council Standing Orders, 1920, the President is pleased to direct that the following procedure be followed in determining the relative precedence of notices of Bills and Resolutions, namely :—

(1) All non-official members when giving notice for the introduction of Bills or the moving of resolutions will state in the notice the order of precedence in which they place the motions of which they are giving notice. If they send in more than one notice, the motion or motions contained in the earlier notice will take priority over other motions of the same member of which subsequent notice is given, unless the member sends express written intimation to the contrary. If notice of two or more motions is given by a member at one time and no priority is stated between them, the motions will not be considered for priority until the ballot held under rule (8) below.

(2) On such day and at such time as the President may prescribe in this behalf balloting will take place for priority of non-official Bills and Resolutions. Members may attend at the time of the ballot if they wish, but are not bound to do so.

(3) The name of each member who has given notice of one or more motions (Bills or Resolutions) shall be entered in alphabetical order by the Secretary on the ballot paper.

(4) Slips of paper bearing corresponding numbers will be folded up and placed in the ballot box.

(5) The Registrar of the Council, having shuffled the slips of paper, will draw them out one by one and notify to the Secretary the numbers that have been drawn out.

(6) (i) The Secretary shall thereupon announce, in order of drawing, the names of the members to whose signatures the numbers are attached upon the ballot paper, and shall enter the notices in the list of business in the order arrived at by ballot:

Provided that, as a result of any one ballot, priority will be given to only one motion standing in the name of any one member.

(ii) The list of business will be compiled so as to give, within the time allotted to non-official business by the Governor, such time to bills of non-official members and to resolutions as may be decided by the President. When the number of a member is drawn in the ballot, if the motion to which he has given preference is a bill, that bill will take place in the list of business among the bills according to the order of drawing, and if it is a resolution, then it will similarly take place in the list of resolutions.

(7) After a ballot has been taken, if any notices stand over in the names of members whose names have been balloted, a further ballot or ballots shall be taken until all such notices have been disposed of.

(8) Motions of members whose names do not appear on the ballot paper shall be placed after all balloted notices, in the order in which they may be drawn in a final supplementary ballot, conducted on the same lines, except that each motion will be given a number, and that the proviso to order (6) (i) shall not apply.

(9) The President shall, after question-time, announce to the members in meeting the order of non-official business as arrived at by the ballot.

*Example:—*

The following notices of motions are received from A, B, C, D, E, F, G, H and I, namely :—

- A—1 Resolution and 1 Bill
- B—2 Resolutions
- C—2 Bills
- D—1 Resolution
- E—1 Bill
- F—2 Resolutions
- G.—10 Resolutions
- H—2 Resolutions
- I—5 Resolutions.

“ H ” and “ I ” send in notice to the Secretary, but do not mention for which resolution they claim precedence. The notice is therefore treated as void for the purpose of the ballot.

The remainder comply with the provisions of rule (7).

A ballot is taken with the following result :—

First—D  
Second—F  
Third—A  
Fourth—G  
Fifth—B  
Sixth—E  
Seventh—C

At D's previous request his resolution is put first among the resolutions on the list of business. One of F's resolutions comes next. A has given preference to his Bill, so it is entered first among the Bills. The one of G's resolutions, which he has chosen, comes third among the resolutions.

Then one of B's.

E's Bill comes second on the list of Bills.

One of C's' Bills comes third.

The above ballot leaves the following notices given by members balloting undisposed of, viz:—

A's resolution.

B's second resolution.

C's second Bill.

F's second resolution.

G's nine resolutions.

A second ballot is taken for the above items, by which all are disposed of on the same principle and entered in the list of business, except eight of G's. Then G's eight resolutions are entered in the list of business.

At the end of the list of business the two resolutions of H and the five resolutions of I are entered according to the order of the final supplementary ballot.



**274 MANNER OF DETERMINING BY BALLOT THE RELATIVE  
PRECEDENCE OF NON-OFFICIAL BILLS WHICH HAVE  
NOT REACHED A CERTAIN STAGE.**

**Manner of determining by ballot the relative precedence of non-official  
Bills which have not reached a certain stage.**

[See Standing Order 7(4) (section 20) page 244, *ante*.]

In exercise of the power conferred by Standing Order No. 7 (4) (section 20) of the Bengal Legislative Council Standing Orders, 1920, the President is pleased to direct that the method of the ballot which governs the question of the precedence of notices of Bills and motions shall *mutatis mutandis* apply to determination by ballot of the relative precedence of Bills of non-official members which have not reached the stages named in Standing Order No. 7 (4) (section 20).

**Manner of putting questions and answering them.**

[See Standing Order 17 (section 32) page 247, *ante*.]

In exercise of the discretion vested in him by Standing Order No. 17 (section 32) of the Bengal Legislative Council Standing Orders, 1920, the President is pleased to direct that the following procedure shall be adopted for the putting and answering of questions in the Bengal Legislative Council :—

- (1) When submitting to the Secretary, under Standing Order 12 (section 24) of the Bengal Legislative Council Standing Orders, 1920, a copy of the question which he wishes to ask a member shall, if he desires an oral answer to his question, distinguish it by an asterisk or “ star.”
- (2) No “ unstarred ” question shall be answered orally, but the answer thereto shall be printed and laid on the table, and a copy thereof furnished to the questioner.
- (3) Printed copies of the answers to all questions to which no oral answer is to be given shall be laid on the table half an hour before the President takes his seat.
- (4) At question-time the Secretary shall, in the case of a question which is to be answered orally, specify the serial number of the question and forthwith call upon the member-in-charge to reply. In the case of a question which is not to be answered orally, the Secretary shall similarly specify the serial number of such question, and thereafter make a sufficient pause to allow the questioner a reasonable opportunity of rising in his place, in the event of his desiring to ask any supplementary question.

[NOTE.—An asterisk will, for the sake of convenience, be placed against every question on the question paper which is to be answered orally.]

- (5) A supplementary question shall, in the case of a question to be answered orally, be put immediately after the answer to the principal question to which it relates has been given ; and, in the case of an “ unstarred ” question, as soon as the Secretary has specified the serial number of such question.

- (6) No members shall be permitted to "star" more than ten questions for reply at any one meeting.
- (7) It shall be permissible for the Secretary to number as two or more questions (as the circumstances may require) any question (submitted as a single question) which appears to him to deal with more than one subject-matter; and should such renumbering of a member's questions result in his being found to have submitted more than ten starred questions for answer at any meeting, he should be informed of the fact, and, if there is time, be asked to elect which of the questions he desires to have included among the starred questions on the question paper.

**Method of taking votes by division.**

[See Standing Order 30(3) (section 37) page 248, *ante*.]

In exercise of the power conferred by Standing Order 30 (3) (section 37) of the Bengal Legislative Council Standing Orders, 1920, the President is pleased to prescribe the following procedure for the taking of a division at a meeting of the Bengal Legislative Council, namely:—

(1) When a division is called, the Secretary shall direct the division bells to be set in motion. The bells shall be rung continuously for two minutes.

(2) All members shall immediately resume their seats and the lobbies shall be cleared. After the lapse of two minutes the doors leading into the lobbies shall be closed, and thereafter no other members shall be allowed into the Chamber, nor shall any member other than those who have returned to the Chamber be permitted to take part in the division.

(3) When the lobbies have been cleared, the tellers will take up their positions in the lobbies, and the President shall then give the direction “Divide.”

(4) Members will then commence to file through the doors at the lower end of the Chamber into their respective lobbies.

The “Ayes” will file into the lobby on the south side and the “Noes” into that on the north side.

(5) The teller will tick off the names of members as they pass by him along the passage.

(6) Members will proceed along the passage in single file and re-enter the Chamber through the doors at the upper end.

(7) The President will direct that the entrance doors to the lobbies be locked after sufficient time has been given, in his opinion, for the members to enter the lobbies.

**NOTE.**—The vote of a member, who leaves the Chamber for the division lobby after the order for the closing of the doors has been given and while it is being carried out, will not be recorded—see page 446 of Volume XI, No. 1 of the Bengal Legislative Council Proceedings; see also page 218 of Volume XI, No. 2, *ibid*; see also page 119 of Vol. XI, No. 5 of *ibid*.

(8) The Secretary will then count the “Ayes” and the “Noes” and hand the result of the division to the President, who will declare the numbers and state the determination of the Council on the question proposed.

(9) In cases where the President is of opinion that the sense of the Council has been clearly indicated on a question and that it is unlikely that more than a very limited number of members would vote on the side by which the division is claimed, the President will, if he thinks proper, direct that the division be taken summarily in the Chamber. In such cases the division-bell will be rung for the usual period and the President will then direct members of the side claiming the division to rise in their seats. If less than ten members so rise, their names will be recorded and the number of members voting on the other side will then be taken by such members similarly rising. If as many as ten members rise on the side of the member who has claimed the division, the President will thereupon direct that the division be taken through the lobbies in accordance with the procedure indicated in rules (3) to (8).

**REGULATIONS FOR THE METHOD OF ELECTION OF THE 279  
MEMBERS OF THE COMMITTEE ON PUBLIC ACCOUNTS.**

**Regulations for the method of election of the members of the committee  
on public accounts.**

[See Standing order 70 (section 96) page 266, *ante*.]

In exercise of the power conferred by Standing Order 70 (section 96) of the Bengal Legislative Council Standing Orders, 1920, the President is pleased to prescribe the following procedure for the election of members on the committee on public accounts by the non-official members of the Bengal Legislative Council, namely:—

(1) The election shall be made at a meeting of the non-official members of the Bengal Legislative Council to be held in Calcutta at such time and place as may be intimated to them by the Secretary to the Council by registered letter.

(2) When sending such intimation, the Secretary shall invite each member to state, by registered letter, by a date to be fixed by the Secretary, whether he desires to stand for election.

(3) The Secretary shall make a list of the names of all members who have, by the date so fixed, stated their desire to stand for election, and shall send a printed copy of such list to each non-official member one week at least before the date of the election.

(4) On the day on which the election is held, the members present shall elect one of their number to be Chairman and to preside over the election.

(5) The Secretary (and any of his assistants) shall attend the meeting, and shall deliver to each member present a ballot paper containing the names of the candidates for election. Such ballot paper shall have printed thereon such suitable instructions for the guidance of electors as the President may determine.

(6) The members shall then proceed to ballot for candidates by means of the single transferable vote, in accordance with the procedure contained in the special regulations for the election of members of the Bengal Legislative Council from the Presidency and Burdwan (European) constituency, so far as that procedure may be applicable.

(7) The Secretary shall report the result of the election to the local Government.

280 REGULATIONS FOR SELECTION OF MEMBERS OF THE  
SELECT COMMITTEE TO CONSIDER AMENDMENTS OF  
STANDING ORDERS.

**Regulations for selection of members of the select committee to consider  
amendments of standing orders.**

[See Standing order 61 (section 100) page 267, *ante*.]

In exercise of the power conferred by Standing Order 61 (section 100) of the Bengal Legislative Council Standing Orders, 1920, the President is pleased to prescribe the following procedure in the case of the selection of seven members for appointment to a select committee on the amendment of Standing Orders, namely:—

(1) After a motion for the reference to a select committee for the consideration of any amendment of the Standing Orders has been carried in Council, the President shall intimate to the members the time at which he will be prepared to receive the names of candidates for the select committee.

(2) When this time is reached, every member who wishes to propose a member for selection must—

- (i) have ascertained previously that the member is willing to serve if selected; and
- (ii) hand to the President a notice containing the name of the member whom he desires to propose, signed by himself and some other member as seconder.

(3) The Secretary shall prepare a ballot paper containing all the names of the candidates with such suitable instructions printed thereon for the guidance of the electors as the President may determine.

(4) On the following day, after the business for the day has been completed, or at any other time to be fixed by the President, the members will proceed to ballot for candidates by means of the single transferable vote, in accordance with the procedure contained in the special regulations for the election of members of the Bengal Legislative Council from the Presidency and Burdwan (European) constituency, so far as that procedure may be applicable.

**Orders of the President regulating admission to the Council Chamber.**

[See Standing Order 75 (section 103) page 269, *ante*.]

In exercise of the power conferred by Standing Order 75 (section 106) of the Bengal Legislative Council Standing Orders, 1920, the President, with the approval of the Governor, is pleased to make the following orders for the admission of strangers to the Council Chamber during sittings of the Council, namely:—

(1) Applications for admission of the public to meetings of the Council shall be made through a member to the Secretary at least two days before the meeting. All admission tickets granted under this rule shall be sent to the member through whom the application is received.

(2) Representatives of the Press will be admitted under the orders of the Secretary to the Council.

(3) An official, other than officials who are members or officers of the Council, desiring to attend a meeting of the Council for any purpose whatsoever shall apply direct to the Secretary to the Council for permission to do so.

(4) Tickets of admission shall be of three classes, as follows:—

- (i) Class A—white—for distribution to the public (through members);
- (ii) Class B—blue—for distribution to accredited reporters of newspapers; and
- (iii) Class C—green—for distribution to officials, other than members of Council.

(5) Admission tickets will be shown by their holders, on arrival, to the sergeant on duty at the foot of the west staircase, and shall be punched by him at the time.

(6) All ticket-holders will enter by the west staircase and pass through the north-west corridor to their respective places.

(7) Every holder of a Class “ A ” or Class “ C ” ticket will deliver up his ticket to the sergeant when leaving the building:

Provided that if the ticket is good for more than one meeting, the holder may, if he desires to attend again, retain his ticket until the last meeting for which it is admissible.



*Explanation.*—It will not be necessary for a ticket-holder to deliver up his ticket when leaving the building at the luncheon interval or at any other time during the meeting, if it is his intention to return after the adjournment or during the course of the meeting, but no person will be re-admitted without a ticket.

(8) After the close of each day's meeting, the sergeant, whose duty it has been to collect the tickets, will hand over all tickets so collected to the Registrar to the Council.

(9) Visitors will not be permitted in the Council Chamber, or, except in the case of ladies on their way to and from the ladies gallery, in either of the lobbies, or in the rooms reserved for members and officers of the Council.

(10) Persons having business at the Town Hall with members of the Government or with the Legislative Department on days when the Legislative Council is sitting will state their business to the Assistant attending for this purpose at the foot of the west staircase. The Assistant will report the matter for orders to the Secretary to the Council.

(11) Every Secretariat clerk or menial whom it may be necessary to send to the Town Hall on the occasion of any meeting of the Legislative Council will be provided with a numbered metal badge marked with the letters "L. C."

**Rules for the Bengal Legislative Council Library.**

1. In these rules—

- (a) “ Member ” means a member (for the time being) of the Bengal Legislative Council;
- (b) “ Secretary ” means the Secretary to the Bengal Legislative Council and includes any officer deputed for the time being by the Secretary to perform his duties; and
- (c) “ Book of reference ” means any book or collection of books which, by reason of the nature of its contents, ought not, in the opinion of the Secretary, to be removed from the library.

2. (1) The library will be open for the use of members of the Council between 11 A.M. and 4 P.M. (Saturdays 2 P.M.) on every day, except Sundays, gazetted and other holidays.

(2) On days on which the Council is sitting the Library will be kept open till the Council is adjourned.

3. On every day on which the library is open as provided in rule 2 the Librarian shall attend at the Library during the prescribed hours, and shall, so far as may be, assist members in securing any information available therein that they may require. Should any member so desire, silence shall be maintained in the Library room.

4. A member may borrow from the Library any book (other than a book of reference) for any period not exceeding fifteen days from the date of issue :

Provided that—

- (i) no member shall at any one time have more than three library books in his possession; and
- (ii) the Secretary may require that any book which is in demand shall be returned within seven days of the date of issue.

5. No member shall remove any book of reference from the Library on any pretext whatever.

6. A “ Loan Register ” shall be kept by the Librarian, and no member shall borrow any book from the Library under rule 4 without causing the name of such book to be entered therein.

7. No member shall lend any library book to any stranger.

8. The Secretary may call upon a member to refund the cost-price of any book borrowed by him which is not returned to the Library within a reasonable time of the issue (by registered post) of a notice to such member calling upon him to return the book.

9. A suggestion-book shall be kept on the library table, and the Librarian shall from time to time draw the attention of the Secretary to any suggestions made by members therein.

10. No stranger shall have access to the Library.

11. The Librarian will see that writing materials are available in the library room for the use of members.

12. Latest or corrected issues, as the case may be, of the following publications shall be placed on the table in the library on meeting days :—

- (a) *The Calcutta Gazette.*
- (b) The Bengal Civil List.
- (c) List of Members.
- (d) List of pending legislation.
- (e) Bills introduced in Council and all "(public) printed papers connected therewith.
- (f) The Bengal Legislative Council Manual.

## **PART V.**



## **MISCELLANEOUS.**



**PART V.—Miscellaneous.**

Notification relating to “backward tracts.”

**NOTIFICATION.**

*Delhi, the 3rd January, 1921.*

*No. 2 G.*—In exercise of the powers conferred by sub-section (2) of section 52A of the Government of India Act, the Governor-General in Council is pleased to declare the territories in the Presidency of Bengal which are specified in the first column of the Schedule hereto annexed to be “backward tracts,” and is further pleased, with the sanction of His Majesty, which has been signified by the Secretary of State in Council, to direct that the said Act in its application to the said territories shall be subject to the exceptions and modifications specified in the second column of the said Schedule.

2. Further, in exercise of the like powers, the Governor-General in Council is pleased to authorise the Governor of Bengal in Council to direct that any Act of the local legislature of Bengal shall not apply to the said territories, or any part thereof, or shall apply thereto subject to such exceptions or modifications as the Governor may think fit.

**SCHEDULE.**

Territories.	Exceptions and modifications.
The Hill Tracts of Chittagong and the Darjeeling district.	<p>1. The provisions of the Government of India Act which confer powers on the Indian legislature and on the local legislature of Bengal to make laws, respectively, for British India and the Presidency of Bengal :—</p> <p>(a) shall not apply to the Hill Tracts of Chittagong, and</p> <p>(b) shall be construed in their application to the Darjeeling district as requiring those legislatures, when making laws solely applicable to the said district or any part thereof, to insert in every law so made a provision that such law shall come into operation only on such date and subject to such exceptions and modifications, if any, as the Governor-General in Council or the Governor in Council, by notification in the <i>Gazette of India</i> or the local official Gazette, as the case may be, may direct.</p>

## BACKWARD TRACTS.

Territories.	Exceptions and modifications.
The Hill Tracts of Chittagong and the Darjeeling district— <i>concl'd.</i>	<p>2. The provisions of the said Act, which require proposals for expenditure by the Governor-General in Council and by the local Government of Bengal to be submitted to the vote of the Legislative Assembly and of the Legislative Council of the Governor of Bengal, respectively, shall not apply to proposals for expenditure [declared by the Governor-General or the Governor, as the case may be, to be for the purpose of the internal administration of] these territories.</p> <p>3. In lieu of the provisions of the said Act, which enable rules to be made for prohibiting or regulating in either chamber of the Indian legislature the asking of questions on, and the discussion of, any subject specified in the rules, there shall be substituted a provision prohibiting the asking of questions on, and the discussion of, any subject relating to these territories; and the provisions of the said Act, which enable rules to be made for prohibiting or regulating in local legislative councils the asking of questions on, and the discussion of, any subject specified in the rules, shall be construed as if they prohibited the asking of questions on, and the discussion of, any subject relating to those territories in the Legislative Council of the Governor of Bengal, save with the sanction of the Governor.</p> <p>4. Section 46 (7) of the said Act shall be construed in its application to these territories as if the words "in relation to reserved subjects" and the words "and in relation to transferred subjects (save as otherwise provided by this Act) by the Governor acting with ministers appointed under this Act" were omitted.</p>

## Notification issued in the Gazette of India of the 28th May, 1921.

No. 1407.—*The 19th May, 1921.*—In pursuance of clause (1) of rule 2 of the local Legislatures (Previous Sanction) Rules, the Governor-General in Council is pleased to declare that the provisions of that rule shall not apply to any of the enactments specified below:—

Year.	No.	Short title.
		MADRAS REGULATIONS.
1802 ..	XXVI	The Madras Land Registration Regulation, 1802.
1802 ..	XXIX	The Madras Karnams Regulation, 1802.
1816 ..	XI	The Madras Village-police Regulation, 1816.

<sup>1</sup> These words in square brackets were substituted for the word "in" *vide* notification No. 124, dated the 15th December, 1921, in the Gazette of India of the 17th *idem*, Part I, p. 1658.

Year.	No.	Short title.
MADRAS REGULATIONS— <i>concl'd.</i>		
1816	XII	The Madras Village-lands Disputes Regulation, 1816.
1817	VII	The Madras Endowments and Escheats Regulation, 1817.
1817	VIII	The Madras Revenue Recovery (Military Proprietors) Regulation, 1817.
1821	IV	The Madras Village Police Regulation, 1821.
1822	VII	The Madras Native Public Officers Regulation, 1822.
1822	IX	The Madras Revenue Malversation Regulation, 1822.
1823	III	The Madras Revenue Malversation (Amendment) Regulation, 1823.
1828	VII	The Madras Subordinate Collectors and Revenue Malversation (Amendment) Regulation, 1828.
1831	V	The Madras Stamp Penalties Regulation, 1831.
1832	III	The Madras Revenue Malversation (Amendment) Regulation, 1832.
BOMBAY REGULATIONS.		
1827	XII	[A Regulation for defining the duties and powers of Police-authorities.]
1830	XIII	[A Regulation vesting certain jagirdars, etc., with the powers of deciding suits.]
BENGAL REGULATIONS.		
1793	XI	The Bengal Inheritance Regulation, 1793.
1795	XLIV	The Benares Inheritance Regulation, 1795.
1805	XIII	The Cuttack Police Regulation, 1805.
1810	XIX	The Bengal Charitable Endowments, Public Buildings and Escheats Regulation, 1810.
1814	XXIX	The Bengal Ghatwali Lands Regulation, 1814.
1816	V	The Bengal Kanungoes Regulation, 1816.
1817	XII	The Bengal Patwaries Regulation, 1817.
1817	XX	The Bengal Police Regulation, 1817. <sup>1</sup>
1819	I	The Bengal Kanungoes and Patwaries Regulation, 1819.
1819	II	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1819.
1822	VII	The Bengal Land-revenue Settlement Regulation, 1822.

<sup>1</sup> Repealed in Bengal by Bengal Act I of 1914, Sch. IV.



Year.	No.	Short title.
BENGAL REGULATIONS— <i>concl'd.</i>		
1823	VI	The Bengal Indigo Contracts Regulation, 1823.
1825	IX	The Bengal Land-revenue Settlement Regulation, 1825.
1825	XI	The Bengal Alluvion and Diluvion Regulation, 1825.
1825	XIII	The Bengal Land-revenue Settlement (Resumed Kanungoes and Revenue-free Lands) Regulation, 1825.
1825	XIV	The Bengal Revenue-free Lands Regulation, 1825.
1828	III	The Bengal Land-revenue Assessment (Resumed Lands) Regulation, 1828.
1828	IV	The Bengal Land Revenue Settlement Regulation, 1828.
1830	V	The Bengal Indigo Contracts Regulation, 1830.
1831	XI	[A regulation for vesting Tahsildars with the powers of Police-officers.]
1833	IX	The Bengal Land-revenue (Settlement and Deputy Collectors) Regulation, 1833.
GENERAL ACTS.		
1846	I	The Legal Practitioners Act, 1846.
1851	VIII	The Indian Tolls Act, 1851.
1853	XX	The Legal Practitioners Act, 1853.
1861	XVI	The Stage-Carriages Act, 1861.
LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL.		
1835	XIX	(An Act to appoint the Assistant Judge of the Zila Court of Puna to be Assistant to the Agent for Sardars in the Dekkhan.)
1836	X	The Bengal Indigo Contracts Act, 1836.
1837	XXXVI	The Madras Public Property Malversation Act, 1837.
1838	XVI	(An Act to declare that all suits in regard to tenures shall be brought in Civil and not Revenue Courts.)
1838	XIX	(An Act to make rules as to coasting and other vessels belonging to Her Majesty's subjects.)
1839	VII	The Madras Rent and Revenue Sales Act, 1839.
1839	XX	(An Act to prohibit the levy of haqq, fees and customs.)

Year.	No.	Short title.
LOCAL ACTS OF THE GOVERNOR-GENERAL IN COUNCIL— <i>concl'd.</i>		
1840	VIII	The Madras Panchayats Act, 1840.
1841	XII	The Bengal Land-revenue Sales Act, 1841.
1844	XIX	(An Act for abolishing town-duties, etc., within the Presidency of Bombay.)
1847	IX	The Bengal Alluvion and Diluvion Act, 1847.
1848	XX	The Bengal Landholders' Attendance Act, 1848.
1850	XXIII	The Calcutta Land-revenue Act, 1850.
1850	XXV	The Forfeited Deposits Act, 1850.
1851	XII	The Madras City Land-revenue Act, 1851.
1852	XI	(An Act for the adjudication of certain Titles to Estates claimed to be wholly or partially rent-free.)
1853	VI	The Rent Recovery Act, 1853.
1853	XI	(An Act to facilitate the removal of nuisances and encroachments below high-water marks in the Islands of Bombay and Kolaba.)
1853	XIX	The Recusant Witnesses Act, 1853.
1854	XVI	(An Act to amend the Bengal Regulation XI of 1831.)
1854	XXIV	The Malabar War-knives Act, 1854.
1855	XXXII	The Bengal Embankment Act, 1855. <sup>1</sup>
1856	XII	The Civil Courts Amins Act, 1856.
1856	XVIII	The Calcutta Land-revenue Act, 1856.
1856	XX	The Bengal Chaukidari Act, 1856. <sup>2</sup>
1857	IV	(An Act to amend the law relating to the duties payable on Tobacco.)
1857	VII	The Madras Uncovenanted Officers Act, 1857.
1857	XXI	The Howrah Offences Act, 1857.
1858	I	The Madras Compulsory Labour Act, 1858.
1858	XXXI	The Bengal Alluvial Land Settlement Act, 1858.
1859	V	The Bengal Ghatwali Lands Act, 1859.
1859	X	The Bengal Rent Act, 1859.
1859	XI	The Bengal Land-revenue Sales Act, 1859.

<sup>1</sup> Repealed in Bengal by Bengal Act IV of 1915.<sup>2</sup> Repealed in Bengal by Bengal Act V of 1876.

# INSTRUCTIONS TO THE GOVERNOR.

GEORGE R. I.

## Instructions to the Governor of the Presidency of Bengal.

Whereas by the Government of India Act provision has been made for the gradual development of self-governing institutions in British India with a view to the progressive realisation of responsible government in that country as an integral part of Our Empire, and whereas it is Our will and pleasure that in the execution of the office of Governor in and over the Presidency of Bengal you shall further the purposes of the said Act to the end that the institutions and methods of Government therein provided shall be laid upon the best and surest foundations, that the people of the said Presidency shall acquire such habits of political action and respect, such conventions as will best and soonest fit them for self-government, and that Our authority and the authority of Our Governor-General in Council shall be duly maintained.

Now, therefore, We do hereby direct and enjoin you and declare Our will and pleasure to be as follows:—

1. You shall do all that lies in your power to maintain standards of good administration, to encourage religious toleration, co-operation, and good-will among all classes and creeds, to ensure the probity of public finance and the solvency of the Presidency and to promote all measures making for the moral, social and industrial welfare of the people and tending to fit all classes of the population without distinction to take their due share in the public life and government of the country.

2. You shall bear in mind that it is necessary and expedient that those now and hereafter to be enfranchised shall appreciate the duties, responsibilities and advantages which spring from the privilege of enfranchisement, that is to say, that those who exercise the power henceforward entrusted to them of returning representatives to the Legislative Council being enabled to perceive the effects of their choice of a representative and that those who are returned to the Council being enabled to perceive the effects of their votes given therein shall come to look for the redress of their grievances and the improvement of their condition to the working of representative institutions.

3. Inasmuch as certain matters have been reserved for the administration according to law of the Governor in Council in respect of which the authority of Our Governor-General in Council shall remain unimpaired while certain other matters have been transferred to the administration of the Governor acting with a Minister, it will be for you so to regulate the business of the Government of the Presidency, that so far as may be possible, the responsibility for each of these respective classes of matters may be kept clear and distinct.

4. Nevertheless you shall encourage the habit of joint deliberation between yourself, your Councillors and your Ministers in order that the experience of your official advisers may be at the disposal of your Ministers and that the knowledge of your Ministers as to the wishes of the people may be at the disposal of your Councillors.

5. You shall assist Ministers by all the means in your power in the administration of the transferred subjects and advise them in regard to their relations with the Legislative Council.

6. In considering a Minister's advice and deciding whether or not there is sufficient cause in any case to dissent from his opinion you shall have due regard to his relations with the Legislative Council and to the wishes of the people of the Presidency as expressed by their representatives therein.

7. But in addition to the general responsibilities with which you are, whether by statute or under this instrument, charged, We do further hereby specially require and charge you—

(1) to see that whatsoever measures are in your opinion necessary for maintaining safety and tranquillity in all parts of your Presidency, and for preventing occasions of religious or racial conflict are duly taken and that all orders issued by Our Secretary of State, or by Our Governor-General in Council on our behalf, to whatever matters relating, are duly complied with;

(2) to take care that due provision shall be made for the advancement and social welfare of those classes amongst the people committed to your charge who, whether on account of the smallness of their number, or their lack of educational or material advantages, or from any

other cause, specially rely upon Our protection and cannot as yet fully rely for their welfare upon joint political action, and that such classes shall not suffer or have cause to fear neglect or oppression;

- (3) to see that no order of your Government and no act of your Legislative Council shall be so framed that any of the diverse interests of, or arising from, race, religion, education, social condition, wealth or any other circumstance may receive unfair advantage or may unfairly be deprived of privileges or advantages which they have heretofore enjoyed, or be excluded from the enjoyment of benefits which may hereafter be conferred on the people at large;
- (4) to safeguard all members of Our services employed in the said Presidency in the legitimate exercise of their functions, and in the enjoyment of all recognised rights and privileges, and to see that your Government order all things justly and reasonably in their regard, and that due obedience is paid to all just and reasonable orders and diligence shown in their execution;
- (5) to take care that while the people inhabiting the said Presidency shall enjoy all facilities for the development of commercial and industrial undertakings no monopoly or special privilege, which is against the common interest, shall be established and no unfair discrimination shall be made in matters affecting commercial or industrial interests.

8. And We do hereby charge you to communicate these Our Instructions to the members of your Executive Council and your Ministers and to publish the same in your Presidency in such manner as you may think fit.

**Example of an election conducted on the system of the  
single transferable vote.**

Let it be assumed that there are five members to be elected, and that there are ten candidates, A, B, C, D, E, F, G, H, I and K.

The ballot papers are examined, and the valid papers are arranged in separate parcels under names of the candidates marked with the figure 1.

Each separate parcel is counted, and each candidate is credited with one vote in respect of each paper on which a first preference has been recorded for him.

The result of the count may be supposed to be as follows:—

						Votes.
A	..	..	..	..	..	2,009
B	..	..	..	..	..	952
C	..	..	..	..	..	939
D	..	..	..	..	..	746
E	..	..	..	..	..	493
F	..	..	..	..	..	341
G	..	..	..	..	..	157
H	..	..	..	..	..	152
I	..	..	..	..	..	118
K	..	..	..	..	..	93
Total						6,000

**The Quota.**

It is found that the total of all the valid votes is 6,000. This total is divided by six (*i.e.*, the number which exceeds by one the number of vacancies to be filled), and 1,001 (*i.e.*, the quotient 1,000 increased by one) is the "quota" or the number of votes sufficient to elect a member.

A's votes exceed the quota, and he is declared elected.

**First transfer.**

A has 1,008 surplus votes (*i.e.*, A's total 2,009, less the quota 1,001), and it is necessary to transfer this surplus.

All A's 2,009 papers are examined and arranged in separate sub-parcels according to the second preferences indicated thereon.

A separate sub-parcel is also formed of those papers on which no further available preference, *i.e.*, no further preference for any continuing candidate, is shown, and which are therefore not transferable.

The result is found to be as follows:—

A next available preference is shown for D on 257 papers.

Ditto	ditto	E on	11	„
Ditto	ditto	F on	28	„
Ditto	ditto	G on	1,708	„
<hr/>				
Total of transferable papers	..	2,004	„	
Total of non-transferable papers	..	5	„	
<hr/>				
Total of A's papers	..	2,009	„	
<hr/>				

Since the total number of transferable papers (2,004) exceeds the surplus (1,008), only a portion of each sub-parcel can be transferred, and the number of papers to be transferred from each sub-parcel must bear the same proportion to the total number of papers in the sub-parcel as that which the surplus bears to the total number of transferable papers.

In other words, the number of papers to be transferred from each sub-parcel is ascertained by multiplying the number of papers in the sub-parcel by 1,008 (the surplus) and dividing the result by 2,004 (the total number of transferable papers).

The process is as follows:—

D's sub-parcel contains 257 papers, and his share of the surplus is therefore—

$$257 \times \frac{1,008}{2,004} \text{ or } 129 \frac{540}{2,004}$$

E's sub-parcel contains 11 papers, and his share of the surplus is therefore—

$$11 \times \frac{1,008}{2,004} \text{ or } 5 \frac{1,068}{2,004}$$

F's sub-parcel contains 28 papers, and his share of the surplus is therefore—

$$28 \times \frac{1,008}{2,004} \text{ or } 14 \frac{168}{2,004}$$

G's sub-parcel contains 1,708 papers, and his share of the surplus is therefore—

$$1,708 \times \frac{1,008}{2,004} \text{ or } 859 \frac{228}{2,004}$$


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Total	..	1,008
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The numbers of papers to be transferred as determined by the preceding process contain fractions, and, since only whole papers can be transferred, so many of the largest of these fractions, taken in order of their magnitude, as will make the total number of papers to be transferred equal to the surplus are reckoned as of the value of unity.

Thus, as the whole numbers determined above amount to only 1,007, viz. (129 + 5 + 14 + 859), or one short of the surplus, 1,008, the largest fraction  $\frac{1,068}{2,004}$  is reckoned as unity, and the numbers of papers to be transferred are as follows:—

To D	..	..	..	..	129 papers.
To E	..	..	..	..	6 „
To F	..	..	..	..	14 „
To G	..	..	..	..	859 „
					<hr/>
Total, being A's surplus				..	1,008 „
					<hr/>

The particular papers to be transferred to D, E, F and G are those last filed in their respective sub-parcels, and, therefore, at the top of the sub-parcels. The papers to be transferred are to be marked so as to indicate the candidates from and to whom the transfer is made.

These papers are added in separate sub-parcels to the parcels of D, E, F and G.

The totals of the votes credited to these candidates then become:—

					Votes.
D	..	..	..	746 + 129 =	875
E	..	..	..	493 + 6 =	499
F	..	..	..	341 + 14 =	355
G	..	..	..	157 + 859 =	1,016

The remainder of the papers in the sub-parcels (*i.e.*, those papers not transferred), together with the papers on



which no further available preferences were marked, are collected together and formed into one parcel, representing A's quota of votes (1,001), and these papers are set aside as finally dealt with. The parcel is made up as follows:—

The remainder of D's sub-parcel	..	257 less 129 =	128
„ „ of E's „	..	11 less 6 =	5
„ „ of F's „	..	28 less 14 =	14
„ „ of G's „	..	1,708 less 859 =	849
Non-transferable papers	..		5
<hr/>			
Total, being A's quota	..		1,001
<hr/>			

The operations involved in this transfer are summarised in the following table:—

**Transfer of A's Surplus.**

Surplus	..	..	..	..	1,008
Number of transferable papers	..		..	..	2,004
Proportion to be transferred					
			Surplus		1,008
			Number of transferable papers	=	2,004

Names of candidates marked as the next available preferences.	Number of original papers.	Number of papers transferred.	Number of paper retained for A's quota.
B	..	..	..
C	..	..	..
D	..	257	128
E	..	11	5
F	..	28	14
G	..	1,708	849
H	..	..	..
I	..	..	..
K	..	..	..
<hr/>			
Total number of transferable papers.	2,004	1,008	996
Number of non-transferable papers.	5	..	5
<hr/>			
Total	..	2,009	1,001
<hr/>			

The state of the poll on the conclusion of the transfer is as follows:—

					Votes.	
A	..	..	..	..	1,001	elected.
G	..	..	..	..	1,016	
B	..	..	..	..	952	
C	..	..	..	..	939	
D	..	..	..	..	875	
E	..	..	..	..	499	
F	..	..	..	..	355	
H	..	..	..	..	152	
I	..	..	..	..	118	
K	..	..	..	..	93	
Total					6,000	

G now has 1,016 votes, a number which is more than the quota. He is accordingly declared elected.

#### Second transfer.

G's surplus (1,016 less 1,001, or 15) would have to be transferred were it not for the provision of the rule by which the returning officer need not transfer a surplus which is less than the difference between the two lowest candidates on the poll, and where, therefore, the transfer could not alter the relative position of these two candidates, even if the whole surplus were transferred to the lowest candidate. In this case the difference between I and K, the two lowest candidates, is 25 (118 less 93), and therefore G's surplus need not be transferred.

The returning officer proceeds to distribute the papers of the candidate with the smallest total of votes.

K's parcel of 93 papers is therefore examined. It is found to contain 89 papers on which F is the next preference, and 4 on which C is the next preference.

Therefore 89 papers are transferred to F and 4 to C, being marked so as to indicate the transfer.

The poll now stands as follows:—

					Votes.	
A	..	..	..	..	1,001	elected.
G	..	..	..	..	1,016	do.
B	..	..	..	..	952	
C	..	..	..	..	943	
D	..	..	..	..	875	
E	..	..	..	..	499	
F	..	..	..	..	444	
H	..	..	..	..	152	
I	..	..	..	..	118	
Total					6,000	

#### Third transfer.

The poll shows that as a result of the second transfer no further candidate obtained the quota which would entitle him to election, and the next operation has to be determined upon.

The difference between I and H (152 less 118, *i.e.*, 34) exceeds G's surplus (15), which, therefore, is still allowed to remain untransferred.

Candidate I is lowest on the poll, and his papers have to be distributed in the same manner as K's. But as the combined totals of H and I together with G's surplus ( $152 + 118 + 15 = 285$ ) are less than 444, the total of F, the next highest candidate, the returning officer distributes the papers of both H and I in one operation.

The papers (152 + 118, or 270 in all) in the parcels of H and I are examined in one operation, and it is found that—

B is marked next preference on	..	..	119	papers.
D       "               "	..	..	107	"
Non-transferable papers	..	..	44	"
Total				270

It should be stated that on some papers some or one of the candidates, A, G, I, H and K, may have been

marked as next in order of preference on the papers examined, but as all these candidates are already either elected or excluded, any papers so marked pass to those of the other candidates for whom the next available preferences have been recorded.

The operation is completed by the transfer of 119 papers duly marked to B, and 107 to D, whilst the 44 non-transferable papers are set aside as finally dealt with.

The poll now stands as follows:—

					Votes.	
A	..	..	..	..	1,001	elected.
G	..	..	..	..	1,016	do.
B	..	..	..	..	1,071	
D	..	..	..	..	982	
C	..	..	..	..	943	
E	..	..	..	..	499	
F	..	..	..	..	444	
Non-transferable papers..			..	..	44	
Total					6,000	

B now has 1,071 votes, a number which exceeds the quota. He is accordingly declared elected.

#### Fourth transfer.

B's surplus (70) exceeds the difference (55) between E and F, the two candidates lowest on the poll, and it is therefore necessary to distribute it.

For this purpose only the sub-parcel of papers last transferred, containing 119 papers, is taken into account.

These are examined and arranged in sub-parcels (in the same manner as A's papers were examined and arranged), with the following result:—

A next preference is shown for E on 84 papers.

No further preference is shown on 35 papers.

The total number of transferable papers (84) is thus greater than the surplus (70), and the proportion to be transferred is  $\frac{70}{84}$ . But there is only one candidate, E, entitled to participate in the transfer. E accordingly receives the whole of the surplus and the 70 papers last filed in E's sub-parcel are, therefore, transferred to him, after being marked so as to indicate their transfer from B to E.

The remainder of the papers in E's sub-parcel, together with the non-transferable papers, are placed with B's original parcel. The whole constitutes B's quota and these papers are set aside as finally dealt with.

B's quota is made up as follows :—

Original parcel	..	..	..	952
Remainder of E's sub-parcel	..	..	..	14
Non-transferable papers	..	..	..	34
Total				1,001

The poll now stands as follows :—

					Votes.	
A	..	..	..	..	1,001	elected.
G	..	..	..	..	1,016	do.
B	..	..	..	..	1,001	do.
D	..	..	..	..	982	
C	..	..	..	..	943	
E	..	..	..	..	569	
F	..	..	..	..	444	
Non-transferable papers		..	..	..	44	
Total				..	6,000	

#### Fifth transfer.

No candidate is elected as the result of the transfer, and the next operation has to be determined upon.

G's surplus is still not distributable, being smaller than the difference between the totals of E and F, the two lowest candidates.

F is lowest, and his papers have to be distributed.

On examination it is found that of F's 444 papers, 353 show a next preference for C, and the remainder, 91, contain no further preference.

The operation is completed by the transfer of 353 papers duly marked to C, whilst the 91 non-transferable papers are set aside as finally dealt with.

The polls now stand as follows :—

A	..	..	..	..	Votes.	1,001	elected.
G	..	..	..	..	1,016	do.	
B	..	..	..	..	1,001	do.	
C	..	..	..	..	1,296		
D	..	..	..	..	982		
E	..	..	..	..	569		
Non-transferable papers	..	..	..	..	135		
Total					..	6,000	

C has now 1,296 votes, a number which exceeds the quota, and he is accordingly declared elected.

No further transfer is necessary, for even if all C's surplus (295) and all G's surplus (15) were transferred to E, his total would only amount to 859.

But D's total (982) exceeds this number, and he is therefore declared elected.

The final result is that A, G, B, C and D are elected.

The details of the various operations in this election are shown in the subjoined form of public notice "result sheet."

**Public notice of the result of the poll and of the transfer of votes.**

Number of valid votes	..	..	..	6,000
" members to be elected	..	..	..	5
Quota (number of votes sufficient to secure the election of a candidate)	..	..	..	1,001

Names of candidates.	Votes.	Transfer of A's surplus.	Result.	Transfer of K's votes.	Result.	Transfer of H's and I's votes.	Result.	Transfer of B's surplus.	Result.	Transfer of F's votes.	Final result showing the names of candidates elected and the order of their election.
A ..	2,009	- 1,008	1,001	..	1,001	..	1,001	..	1,001	..	1,001 (Elected) A (1).
B ..	952	..	952	..	952	+119	1,071	- 70	1,001	..	1,001 " B (3).
C ..	939	..	939	+4	943	..	943	..	943	+353	1,296 " C (4).
D ..	746	+129	875	..	875	+107	982	..	982	..	982 " D (5).
E ..	493	+ 6	499	..	499	..	499	+70	569	..	569
F ..	341	+ 14	355	+89	444	..	444	..	444	- 444	..
G ..	157	+859	1,016	..	1,016	..	1,016	..	1,016	..	1,016 (Elected) G (2).
H ..	152	..	152	..	152	- 152	..	..	..	..	..
I ..	118	..	128	..	118	- 118	..	..	..	..	..
K ..	93	..	93	- 93	..	..	..	..	..	..	..
Non-transferable papers not transferred.	..	..	..	..	..	+44	44	..	44	+01	135
TOTAL ..	6,000	..	6,000	..	6,000	..	6,000	..	6,000	..	6,000

**Rules for Standing Committees.**

Standing Committees are attached, under the orders of His Excellency, to the following Departments :—

- (1) Police.
- (2) Judicial and Jails.
- (3) Local Self-Government.
- (4) Medical and Public Health.
- (5) Education.
- (6) Commerce and Marine.
- (7) Public Works (Roads and Buildings).
- (8) Irrigation.
- (9) Agriculture (including Civil Veterinary, Fisheries and Co-operative Credit).
- (10) Excise.
- (11) Land Revenue.

2. The Member or Minister-in-charge of the department concerned will be Chairman, the head of the department concerned, where there is one, will be a member of the Committee; but when, as in the case of Agriculture, several departments are dealt with by the same Committee, each head of department will attend only those meetings at which matters concerning his department are to be considered. The departmental Secretary—(in the case of the Education Department, the Deputy Secretary)—will be Secretary to the Committee.

3. Four non-official Members of the Legislative Council will be appointed by His Excellency to each Committee after consideration of the names of the persons elected for each Committee by the Legislative Council on the basis of the single transferable vote. These members will be entitled to the allowances under the Legislative Council rules if they are summoned to a meeting at a time when the Legislative Council is not sitting.

4. The following matters shall be laid before the Standing Committees :—

- (a) All major questions of departmental policy;
- (b) all schemes involving large expenditure;
- (c) annual reports issued by the departments concerned;
- (d) any other matters concerning the department on which the Member or Minister-in-charge may desire their opinion:

Provided that—

- (I) in cases of urgency a reference to the Committee may be dispensed with;
- (II) the following cases shall be excluded from the purview of the Committee:—
  - (a) cases concerning appointments;
  - (b) all cases which the Member or Minister-in-charge, with the concurrence of the Governor, considers cannot be submitted to it consistently with the public interest.

The functions of the Standing Committees will be advisory only, and their proceedings will be confidential.

5. Meetings of Standing Committees will be summoned by the Secretary under the direction of the Member or Minister-in-charge. The agenda will be drawn up and circulated by the Secretary together with a memorandum explaining the nature of each item of business, and copies of such papers as the Member or Minister-in-charge directs to be furnished to the Committee. Such papers will be returned by the Members to the Secretary at the close of the meeting. The proceedings of the Committee will be confined to the agenda and any requests for further information will be dealt with under orders of the Member or Minister-in-charge. In no circumstances are departmental notes, either past or current, to be circulated to the Committee.

6. At the meeting of a Standing Committee the Secretary will explain the case and will be entitled to take part in the discussion, representing the departmental view before the Committee. The Chairman will then invite a discussion, and the Secretary will note on the departmental file the general opinion of the Committee.



## ARRANGEMENT OF THE SECRETARIAT.

## ARRANGEMENT OF THE SECRETARIAT.

The following statement shows the arrangement of the Secretariat of the Government of Bengal.

Department.	Branch.	Subject.
I. APPOINTMENT	1. APPOINTMENT ..	<ol style="list-style-type: none"> <li>1. Appointments.</li> <li>2. Elections for Indian and Provincial Legislatures, subject to rules framed under sections 64(1) and 71A(4) of the Act.</li> <li>1. <i>All-India Services.</i></li> <li>2. <i>Ecclesiastical administration, including European cemeteries.</i></li> <li>3. <i>Public Services Commission.</i></li> </ol>
II. POLITICAL ..	1. POLITICAL ..	<ol style="list-style-type: none"> <li>1. Political.</li> <li>2. Coroners.</li> <li>1. <i>External relations, including naturalisation and aliens, and pilgrimages beyond India.</i></li> <li>2. <i>Relations with States in India.</i></li> <li>3. <i>Political charges.</i></li> <li>4. <i>Territorial changes, other than intra-provincial, and declaration of laws in connection therewith.</i></li> <li>5. <i>Regulation of ceremonial, titles, orders, precedence and civil uniform.</i></li> </ol>
	2. SPECIAL ..	<ol style="list-style-type: none"> <li>1. Internal political movements.</li> <li>2. Control of newspapers, books, and printing presses, subject to legislation by the Indian Legislature.</li> <li>3. Control of dramatic performances and cinematographs, subject to legislation by the Indian Legislature in regard to sanction of films for exhibition.</li> </ol>
III. POLICE ..	....	<ol style="list-style-type: none"> <li>1. Police, including railway police, subject, in the case of railway police, to such conditions as regards limits of jurisdiction and railway contributions to cost of maintenance as the Governor-General in Council may determine.</li> <li>2. Criminal tribes, subject to legislation by the Indian Legislature.</li> <li>3. European vagrancy, subject to legislation by the Indian Legislature.</li> <li>4. Control of motor vehicles, subject to legislation by the Indian Legislature as regards licenses valid throughout British India.</li> </ol>

Department.	Branch.	Subject.
III. POLICE— <i>concl'd.</i>	....	5. Regulation of betting and gambling. 6. Prevention of cruelty to animals. 7. Control of the Calcutta Maidan. 8. Pounds and prevention of cattle trespass.  1. <i>Control of arms and ammunition.</i>
IV. JUDICIAL ..	....	1. Administration of justice, including constitution, powers, maintenance and organization of Courts of civil and criminal jurisdiction within the province, subject to legislation by the Indian Legislature as regards High Courts, Chief Courts, and Courts of Judicial Commissioners, and any courts of criminal jurisdiction.  2. Provincial law reports. 3. Administrators-General and Official Trustees, subject to legislation by the Indian Legislature.  1. <i>Civil law, including laws regarding status, property, civil rights and liabilities and civil procedure.</i> 2. <i>Criminal Law, including criminal procedure.</i>
V. LOCAL SELF-GOVERNMENT.	1. LOCAL SELF-GOVERNMENT.	1. Local Self-Government, that is to say, matters relating to the constitution and powers of municipal corporations, improvement trusts, district boards, mining boards of health and other local authorities established in a province for the purpose of Local-Self-Government, exclusive of matters arising under the Cantonments Act, 1910, subject to legislation by the Indian Legislature as regards —  (a) the powers of such authorities to borrow otherwise than from a Provincial Government, and  (b) the levying by such authorities of taxation not included in Schedule II to the Scheduled Taxes Rules.  2. Weights and measures, subject to legislation by the Indian Legislature as regards standards.  3. Local Fund Audit, that is to say, the audit by Government agency of income and expenditure controlled by local bodies.

Department.	Branch.	Subject.
V. LOCAL SELF-GOVERNMENT— <i>concl'd.</i>	2. MEDICAL ..	<ol style="list-style-type: none"> <li>1. Medical administration, including hospitals, dispensaries, and asylums and provision for medical education.</li> <li>2. Regulations of medical and other professional qualifications and standard. subject to legislation by the Indian Legislature.</li> <li>3. Control of poisons, subject to legislation by the Indian Legislature. <ol style="list-style-type: none"> <li>1. <i>Marine hospitals.</i></li> </ol> </li> </ol>
	3. PUBLIC HEALTH	<ol style="list-style-type: none"> <li>1. Public health and sanitation and vital statistics, subject to legislation by the Indian Legislature in respect to infectious and contagious diseases to such extent as may be declared by any Act of the Indian Legislature.</li> <li>2. Pilgrimages within British India.</li> <li>3. Adulteration of foodstuffs and other articles, subject to legislation by the Indian Legislature as regards import and export trade. <ol style="list-style-type: none"> <li>1. <i>Port Quarantine.</i></li> </ol> </li> </ol>
VI. EDUCATION	1. EDUCATION ..	<ol style="list-style-type: none"> <li>1. Education : provided that— <ol style="list-style-type: none"> <li>(a) the following subjects shall be excluded, namely :— <ol style="list-style-type: none"> <li>(i) the Benares Hindu University, the Aligarh Muslim University, and such other Universities constituted after the commencement of the Devolution Rules, as may be declared by the Governor-General in Council to be central subjects, and</li> <li>(ii) Chief's Colleges and any institution maintained by the Governor-General in Council for the benefit of members of His Majesty's Forces or of other public servants or of the children of such members or servants ; and</li> </ol> </li> <li>(b) the following subject shall be subject to Legislation by the Indian Legislature, namely :— <ol style="list-style-type: none"> <li>(i) the control of the establishments, and the regulation of the constitutions and functions, of Universities constituted after the commencement of the Devolution Rules, and</li> </ol> </li> </ol> </li> </ol>

Department.	Branch.	Subject.
VI. EDUCATION- <i>concl'd.</i>	1. EDUCATION- <i>concl'd.</i>	<p>(ii) the definition of the jurisdiction of any University outside the province in which it is situated, and</p> <p>(iii) for a period of five years from the date of the commencement of the Devolution Rules the Calcutta University, and the control and organization of secondary education in the Presidency of Bengal.</p>
	2. MISCELLANEOUS	<p>1. Registration of deeds and documents, subject to legislation by the Indian Legislature.</p> <p>2. Registration of births, deaths and marriages, subject to legislation by the Indian Legislature for such classes as the Indian Legislature may determine.</p> <p>3. Religious and charitable endowments.</p> <p>4. Treasure trove.</p> <p>5. Libraries (except the Imperial Library) and museums (except the Indian Museum, the Imperial War Museum, and the Victoria Memorial, Calcutta).</p> <p>1. <i>Archaeology.</i></p>
VII. FINANCE ..	1. FINANCE ..	<p>1. Finance.</p> <p>2. Sources of provincial revenue, not included under previous heads, whether—</p> <p>(a) taxes included in the Schedules to the Scheduled Taxes Rules, or</p> <p>(b) taxes, not included in those Schedules, which are imposed by or under Provincial legislation which has received the previous sanction of the Governor-General.</p> <p>3. Borrowing of money on the sole credit of the province, subject to the provisions of the Local Government (Borrowing) Rules.</p> <p>1. <i>Customs, cotton, excise duties, income-tax, salt and other sources of All-India revenue.</i></p>

Department.	Branch.	Subject.
VII. FINANCE— <i>conclld.</i>	2. SEPARATE REVENUE.	1. Non-judicial stamps, subject to legislation by the Indian Legislature, and judicial stamps, subject to legislation by the Indian Legislature, as regards amount of court-fees levied in relation to suits and proceedings in the High Courts under their original jurisdiction.
	3. MISCELLANEOUS	1. Provincial Government Presses.
VIII. COMMERCE ..	1. INDUSTRIES ..	1. Industrial matters included under the following heads, namely :— (a) factories ; (b) settlement of labour disputes ; (c) electricity ; (d) boilers ; (e) gas ; (f) smoke nuisances ; and (g) welfare of labour, including provident funds, industrial insurance (general, health and accident) and housing ; subject as to heads (a), (b), (c), (d) and (g) to legislation by the Indian Legislature.  2. Development of mineral resources which are Government property, subject to rules made or sanctioned by the Secretary of State, but not including the regulation of mines.
	2. COMMERCE ..	1. <i>Commerce, including banking and insurance.</i> 2. <i>Trading companies and other associations.</i> 3. <i>Control of petroleum and explosives.</i> 4. <i>Aircraft and all matters connected therewith.</i> 5. <i>Posts, telegraphs and telephones, including wireless installations.</i> 6. <i>Inventions and designs.</i>
IX. MARINE ..	....	1. Ports, except such ports as may be declared * by rule made by the Governor-General in Council or by or under Indian legislation to be major ports.  1. <i>Shipping and Navigation.</i> 2. <i>Light-houses (including their approaches), beacons, lightships and buoys.</i> 3. <i>Ports declared * to be major ports by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature.</i>

\* The Port of Calcutta has been declared a major port.

Department.	Branch.	Subject.
X. PUBLIC WORKS. ..	....	<p data-bbox="606 348 1054 395">Public works included under the following heads, namely :—</p> <p data-bbox="682 430 1054 829">(a) construction and maintenance of provincial buildings used or intended for any purpose in connection with the administration of the province; and care of historical monuments, with the exception of ancient monuments, as defined in section 2 (1) of the Ancient Monuments Preservation Act, 1904, which are, for the time being, declared to be protected monuments under section 3 (1) of that Act: provided that the Governor-General in Council may, by notification in the <i>Gazette of India</i>, remove any such monuments from the operation of this exception;</p> <p data-bbox="682 881 1054 1182">(b) roads, bridges, ferries, tunnels, ropeways and causeways and other means of communications, subject to such conditions as regards control over construction and maintenance of means of communication declared by the Governor-General in Council to be of military importance, and as regards incidence of special expenditure connected therewith, as the Governor-General in Council may prescribe;</p> <p data-bbox="682 1216 1054 1263">(c) tramways within municipal areas; and</p> <p data-bbox="682 1298 1054 1558">(d) light and feeder railways and extra-municipal tramways in so far as provision for their construction and management is made by provincial legislation; subject to legislation by the Indian Legislature in the case of any such railway or tramway which is in physical connection with a main line or is built on the same gauge as an adjacent main line.</p>

Department.	Branch.	Subject.
X. PUBLIC WORKS.— concl'd.	....	1. <i>Communications to the extent described under the following head, namely :— railway and extra-municipal tramways in so far as they are not classified as provincial subjects under entry 6 (d) of Part II of Schedule I to the Devolution Rules.</i>
XI. IRRIGATION	....	<p>1. Water-supplies, irrigation and canals, drainage and embankments, water storage and water power; subject to legislation by the Indian Legislature with regard to matters of interprovincial concern or affecting the relations of a province with any other territory.</p> <p>2. Inland waterways, including shipping and navigation thereon so far as not declared by the Governor-General in Council to be central subjects, but subject as regards inland steam-vessels to legislation by the Indian Legislature.</p> <p>1. <i>Inland waterways, to an extent to be declared by rule made by the Governor-General in Council or by or under legislation by the Indian Legislature.</i></p> <p>2. <i>Shipping and navigation on inland waterways in so far as declared to be a central subject.</i></p>
XII. AGRICULTURE AND INDUSTRIES.	<p>1. DEVELOPMENT OF INDUSTRIES.</p> <p>2. AGRICULTURE . .</p>	<p>1. Development of industries, including industrial research and technical education.</p> <p>1. Agriculture, including research institutes, experimental and demonstration farms, introduction of improved methods, provision for agricultural education, protection against destructive insects and pests and prevention of plant diseases; subject to legislation by the Indian Legislature in respect to destructive insects and pests and plant diseases to such extent as may be declared by any Act of the Indian Legislature.</p> <p>1. <i>Meteorology.</i></p>

Department.	Branch.	Subject.
XII. AGRICULTURE AND INDUS- TRIES— <i>concl.</i>	3. CIVIL VETERINARY.	1. Civil Veterinary Department, including provision for veterinary training, improvement of stock, and prevention of animal diseases; subject to legislation by the Indian Legislature in respect to animal diseases to such extent as may be declared by any Act of the Indian Legislature.
		2. Zoological Gardens.
	4. FISHERIES ..	1. Fisheries.
	5. CO-OPERATIVE CREDIT.	1. Co-operative Societies.
XIII. REVENUE ..	6. EXCISE ..	1. Excise, that is to say, the control of production, manufacture, possession, transport, purchase and sale of alcoholic liquor and intoxicating drugs, and the levying of excise duties and license fees on or in relation to such articles, but excluding, in the case of opium, control of cultivation, manufacture and sale for export.
		1. <i>Control of cultivation and manufacture of opium, and sale of opium for export.</i>
	1. LAND REVENUE	1. Land revenue administration, as described under the following heads, namely:—  (a) assessment and collection of land revenue; (b) maintenance of land records, survey for revenue purposes, records-of-rights; (c) laws regarding land tenures, relations of landlords and tenants, collection of rents; (d) Courts of Wards, incumbered and attached estates; (e) land improvement and agricultural loans; (f) colonization and disposal of Crown lands and alienation of land revenue; and (g) management of Government estates.
		2. Famine relief. 3. Excluded areas. 4. Floods and cyclones. 5. Provincial Administration Report.
	2. LAND ACQUISITION.	1. Land acquisition; subject to legislation by the Indian Legislature.



Department.	Branch.	Subject.
XIII. REVENUE-- <i>concl'd.</i>	3. FORESTS ..	1. Forests, including preservation of game therein; subject to legislation by the Indian Legislature as regards disforestation of reserved forests.
	4. JAILS ..	1. Prisons, prisoners, except State prisoners and reformatories; subject to legislation by the Indian Legislature.
	5. MISCELLANEOUS	1. Protection of wild birds and animals <i>1. Emigration from, and immigration into British India, and inter-provincial migration.</i> <i>2. Census and Statistics.</i>

#### Unclassified Provincial Subjects.

1. Stores and stationery, subject, in the case of imported stores and stationery, to such rules as may be prescribed by the Secretary of State in Council.

2. Control, as defined by rule 10, of members of all India and Provincial services serving within the province, and control, subject to legislation by the Indian Legislature, of other public services within the province.

3. Imposition by legislation of punishments by fine, penalty or imprisonment, for enforcing any law of the province relating to any Provincial subject; subject to legislation by the Indian Legislature in the case of any subject in respect of which such a limitation is imposed under these rules.

4. Any matter which, though falling within a central subject, is declared by the Governor-General in Council to be of a merely local or private nature within the province.

5. Matters pertaining to a central subject, in respect of which powers have been conferred by or under any law upon a Local Government.

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NOTE.—Subjects shown in *italic* are central subjects, in respect of which the Local Government exercises agency functions only.

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